[redacted]
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[redacted], MI [redacted]

Date Mailed: February 24, 2021
MOAHR Docket No.: 21-000029
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

AMENDED DECISION AND ORDER
(Amended As To Name Correction Only)*

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.,* and upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on February 18, 2021. [redacted], Petitioner's mother, appeared and testified on behalf of the minor Petitioner. Emily Piggott, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Mellody London, Review Analyst, testified as a witness for the Department.

During the hearing, the Department offered one evidence packet/exhibit that was admitted into the record as Exhibit A, pages 1-31. Petitioner did not offer any exhibits.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a safety bed and accessories?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a [redacted]-year-old Medicaid beneficiary who has been diagnosed with congenital Sanfilippo syndrome. (Exhibit A, page 10).

2. On December 1, 2020, the Department received a prior authorization request for a safety bed and accessories submitted on Petitioner's behalf. (Exhibit A, pages 8-26).

3. As part of that request and its supporting documentation, the provider stated in part:

> At this time, the primary concern of [Petitioner's mother] is getting him a safety bed that will prevent injuries due to seizures. In addition, the patient attempts to crawl and the family has had concerns about him hitting his head on the railing. The most recent bed was purchased 6 years ago.

Exhibit A, page 10

4. The request and supporting documentation further provided:

> Haven Bed – Has been carefully selected for [Petitioner]. He is in need of a bed that he can safely sleep in without falling out of bed and hitting his head. This will also give the family a safe place to complete some of his ADL's such as dressing, [Petitioner] often wakes at night and does not have the safety awareness to stay safely in bed. He is currently in a bed and is high risk for injuring himself. He is in need of an adaptive or safety bed for both his safety and development and one that is designed for someone his size and larger, that will protect against entrapment and entanglement, that will prevent falls from bed, and that minimizes the likelihood that he will climb over the rails. He needs a full-size safety bed with 360-degree unbroken perimeter and safety sides that exceed 20 inches above the sleeping surface. The Haven bed has a safety enclosure that will prevent [Petitioner] from climbing out unsafely and injuring himself. He needs a bed that will protect against entrapment and entanglement. Casters will allow for movement of the bed when needed.

Exhibit A, page 12

5. However, the request and supporting documentation also provided that Petitioner is not a fall risk; he has not had any seizures since March of 2019; he is limited a lot in getting in-and-out of bed; and he has limitations in the use and movement of his upper and lower extremities. (Exhibit A, pages 14, 21-23).

6. On December 23, 2020, the Department sent Petitioner written notice that the request had been denied on the basis that the requested item was not medically necessary, with Medicaid not authorizing coverage of items because an item is the most recent advancement in technology when the beneficiary's current equipment can meet the beneficiary's basic medical/functional needs. (Exhibit A, pages 6-7).

7. On January 8, 2021, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding the Department's decision. (Exhibit A, pages 4-5).

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statutes, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM) and, in part, the applicable version of the MPM states:

> **1.6 MEDICAL NECESSITY**
>
> *Medicaid covers medically necessary durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) for beneficiaries of all ages.* DMEPOS are covered if they are the least costly alternative that meets the beneficiary's medical/functional need and meet the Standards of Coverage stated in the Coverage Conditions and Requirements Section of this chapter.
>
> The medical record must contain sufficient documentation of the beneficiary's medical condition to substantiate the necessity for the type and quantity of items ordered and for the frequency of use or replacement. The information should include the beneficiary's diagnosis, medical condition, and other pertinent information including, but not limited to, duration of the condition, clinical course, prognosis, nature and extent of functional limitations, other therapeutic interventions and results, and past experience with related items. Neither a physician, clinical nurse specialist (CNS), nurse practitioner (NP) or physician assistant (PA) order nor a certificate of medical necessity by itself provides sufficient documentation of medical necessity, even though it is signed by the treating/ordering physician, CNS NP or PA.

Information in the medical record must support the item's medical necessity and substantiate that the medical device needed is the most appropriate economic alternative that meets MDHHS standards of coverage.

Medical equipment may be determined to be medically necessary when all of the following apply:

- The service/device meets applicable federal and state laws, rules, regulations, and MDHHS promulgated policies.

- *It is medically appropriate and necessary to treat a specific medical diagnosis, medical condition, or functional need, and is an integral part of the nursing facility daily plan of care or is required for the community residential setting.*

- The safety and effectiveness of the product for age-appropriate treatment has been substantiated by current evidence-based national, state and peer-review medical guidelines.

- The function of the service/device:

  - meets accepted medical standards, practices and guidelines related to:

    - type,

    - frequency, and

    - duration of treatment; and

  - is within scope of current medical practice.

- It is inappropriate to use a nonmedical item.

- *It is the most cost effective treatment available.*

- The service/device is ordered by the treating physician, NP or PA (for CSHCS beneficiaries, the order must be from the pediatric subspecialist) and clinical documentation from the medical record supports the medical necessity for the request (as described above) and substantiates the practitioner's

order.

- *The service/device meets the standards of coverage published by MDHHS.*

- It meets the definition of Durable Medical Equipment (DME) as defined in the Program Overview section of this chapter.

- Its use meets FDA and manufacturer indications.

MDHHS does not cover the service when Medicare determines that the service is not medically necessary.

Medicaid will not authorize coverage of items because the item(s) is the most recent advancement in technology when the beneficiary's current equipment can meet the beneficiary's basic medical/functional needs.

Medicaid does not cover equipment and supplies that are considered investigational, experimental or have unproven medical indications for treatment.

Refer to the Prior Authorization subsection of this chapter for medical need of an item beyond the MDHHS Standards of Coverage.

NOTE: Federal EPSDT regulations require coverage of medically necessary treatment for children under 21 years of age, including medically necessary habilitative services. Refer to the Early and Periodic Screening, Diagnosis and Treatment Chapter for additional information.

The Healthy Michigan Plan (HMP) covers habilitative services for all ages. Refer to the Healthy Michigan Plan Chapter for additional information

* * *

2.12 ENCLOSED BED SYSTEMS

Definition	An Enclosed Bed System includes the mattress, bed frame, and enclosure as one unit.
Standards of Coverage	*An Enclosed Bed System may be covered if the following applies:*

	▪ *There is a diagnosis/medical condition (e.g., seizure activity) which could result in injury in a standard bed, crib, or hospital bed; and* ▪ *There are no economic alternatives to adequately meet the beneficiary's needs.*
Documentation	The documentation must be less than six months old and include: ▪ Diagnosis/medical condition requiring use of the bed and any special features (if applicable). ▪ Safety issues resulting from the medical condition and related to the need for an Enclosed Bed System. ▪ Other products or safety methods already tried without success (e.g., bumper pads/rails). ▪ Type of bed requested. ▪ Type of special features requested, if applicable.
Noncovered Conditions	Enclosed Bed Systems are not covered when the purpose is to restrain the beneficiary due to behavioral conditions, caregiver need or convenience, etc.
PA Requirements	PA is required for all Enclosed Bed Systems.
Payment Rules	The Enclosed Bed System is considered a purchase only item. For Youth Beds, refer to the Hospital Beds subsection of this chapter.

MPM, October 1, 2020 version
Medical Supplier Chapter, pages 9-10, 45-46
(italics added for emphasis)

Here, as discussed above, Petitioner's request for a safety bed and accessories was denied pursuant to the above policies and on the basis that the requested item was not medically necessary, with Medicaid not authorizing coverage of items just because an item is the most recent advancement in technology when the beneficiary's current equipment can meet his basic medical/functional needs.

In appealing the denial, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his prior authorization request. Moreover, the undersigned Administrative Law Judge is limited to reviewing Department's decision in light of the information available at the time the decision was made.

Given the record and applicable policy in this case, Petitioner has failed to meet his burden of proof and the Department's decision must be affirmed.

During the hearing, the Department's witness credibly and fully explained why the request was denied. In particular, she noted that the submitted documentation specifically provided that Petitioner is not a fall risk, he has not had any seizures since March of 2019, he is limited a lot in getting in-and-out of bed, and he has limitations in the use and movement of his upper and lower extremities; and testified how that specific information refutes the stated reasons for the request and demonstrates a lack of medical necessity.

Moreover, rather than disputing the Department's findings, Petitioner's representative instead argues that the documentation submitted by Petitioner's provider is inaccurate. For example, she testified that Petitioner has had seizures more recently than March of 2019 and has injured himself in his current bed because of them. However, even if Petitioner's representative's testimony regarding seizures and other areas is true, that is not what the documentation submitted to the Department says and the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information available at the time the decision was made.

To the extent Petitioner's representative has updated or additional information to provide, then she and the provider can always submit a new prior authorization request with that information. With respect to the decision at issue in this case however, the Department's decision must be affirmed given the available information and applicable policies.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly denied Petitioner's prior authorization request.

IT IS, THEREFORE, ORDERED that:

The Department's decision is **AFFIRMED.**

Steven Kibit

SK/sb

Steven Kibit
Administrative Law Judge
for Elizabeth Hertel, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

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