[redacted]
[redacted] MI [redacted]

Date Mailed: July 30, 2021
MOAHR Docket No.: 21-002918
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

DECISION AND ORDER

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

After due notice, a hearing was held on July 15, 2021. [redacted] Petitioner's Advocate/Caregiver, appeared on behalf of Petitioner. Petitioner offered testimony on her own behalf. Leigha Burghdoff, Appeals Review Officer, appeared on behalf of Respondent, the Michigan Department of Health and Human Services (Department). Chris Wixtrom, Program Review Analyst, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly deny Petitioner's prior authorization request for wheelchair accessories that included power stand and drive features as well as related stand features?

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 Medicaid beneficiary, born [redacted] 1988, who has been diagnosed with spastic diplegic cerebral palsy. (Exhibit A, p 20.)

2. On or around February 3, 2021, a Prior Authorization (PA) was submitted to the Department for a Power Wheelchair and accessories. The accessories included Power Stand, Power Seat Elevation, Standing Chest Support, Stand and Drive Kit, Memory Seat, Medical Bag Hooks, and Removable Chest Support Hardware.

(Exhibit A, pp 13, 23-55; Testimony.)

3. The documentation submitted with the PA indicated Petitioner was continent with bowel and bladder, was independent with pressure relief, no history of skin issues, requires total assistance with transfers, uses both a mechanical lift and a manual lift, and that Petitioner would use a standing feature for pressure relief in lieu of tilt, recline. The accompanying documentation also indicated Petitioner's prior chairs standing function was not working for a period of 6 months. (Exhibit A, pp 26-28, 32; Testimony.)

4. On February 8, 2021, the Department sent Petitioner, a Request for Additional Information to substantiate the need for features like the power stand and drive, power leg rests, memory seat and chest support. (Exhibit A, pp 13-14.)

5. On March 24, 2021, Mary Free Bed submitted to Department on behalf of Petitioner, an addendum with additional information as requested in the February 8, 2021, Request for Additional Information. (Exhibit A, pp 20-22.)

6. On April 1, 2021, the Department sent Petitioner a Notification of Denial. The notification indicated Petitioner's request for standing chest support, stand and drive kit, memory seat program, medical bag hooks, removable chest support hardware, power seat elevation system, and power standing feature were denied. The notice indicated the medical need for the items was not substantiated and/or not covered. (Exhibit A, pp 14-15; Testimony.)

7. On April 1, 2021, the Department sent Petitioner an Amended Authorization. The notice indicated Petitioner was approved for a power wheelchair with power leg rest and tilt/recline functionality but that the following items were remain denied, standing chest support, stand and drive kit, memory seat program, medical bag hooks, removable chest support hardware, power seat elevation system, and power standing feature. (Exhibit A, pp 17-19; Testimony.)

8. On June 18, 2021, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, pp 5-13.)

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). Regarding the specific request in this case, the applicable version of the MPM states in part:

SECTION 1 – PROGRAM OVERVIEW

This chapter applies to Medical Suppliers/Durable Medical Equipment and Orthotists/Prosthetists.

Providers of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) must be enrolled as a Medicare provider effective September 30, 2009. (Refer to the General Information for Providers chapter for additional information.)

The primary objective of the Medicaid Program is to ensure that medically necessary services are made available to those who would not otherwise have the financial resources to purchase them.

The primary objective of the Children's Special Health Care Services (CSHCS) Program is to ensure that CSHCS beneficiaries receive medically necessary services that relate to the CSHCS qualifying diagnosis.

This chapter describes policy coverage for the Medicaid Fee-for-Service (FFS) population and the CSHCS population. Throughout the chapter, use of the terms Medicaid and Michigan Department of Health and Human Services (MDHHS) includes both the Medicaid and CSHCS Programs unless otherwise noted.

Medicaid covers the least costly alternative that meets the beneficiary's medical need for medical supplies, durable medical equipment or orthotics/prosthetics.

Below are common terms used throughout this chapter:

* * *

Durable Medical Equipment (DME)

Equipment that can withstand repeated use, is reusable or removable, is suitable for use in any non-institutional* setting in which normal life activities take place, is primarily and customarily used to serve a medical purpose, and is generally not useful to an individual in the absence of illness, injury or disability. Examples are: hospital beds, wheelchairs, and ventilators. DME is a benefit for beneficiaries when:

- It is medically and functionally necessary to meet the needs of the beneficiary.

- It may prevent frequent hospitalization or institutionalization.

- It is life sustaining.

* * *

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, 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, 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.

* * *

1.11 NONCOVERED ITEMS

Items that are not covered by Medicaid include, but are not limited to:

- …
- Equipment for social or recreational purposes
- …
- Wheelchair accessories (e.g., horns, lights, bags, special colors, etc.)

* * *

2.47.B. STANDARDS OF COVERAGE

* * *

Power Wheelchair or Power-Operated Vehicle (POV) in Both Community Residential and Institutional Residential Settings

May be covered if the beneficiary meets **all** of the following:

- Lacks ability to propel a manual wheelchair, or has a medical condition that would be compromised by propelling a manual wheelchair, for at least 60 feet over hard, smooth, or carpeted surfaces with or without rest intervals.
- Requires use of a wheelchair for at least four hours throughout the day.
- Is able to safely operate, control and maneuver the wheelchair in their environmental setting, including through doorways and over thresholds up to 1½", as appropriate.
- Has a cognitive, functional level that permits safe operation of a power mobility device with or without training.

- Has visual acuity that permits safe operation of a power mobility device.

- For a three-wheeled power mobility device, has sufficient trunk control and balance.

* * *

Manual or Power Recline Feature

May be covered when needed for relief of pressure on the seat and/or back, and one of the following applies:

- History of skin breakdown or current indication of imminent skin breakdown that cannot be controlled (or has not in the past0 by less costly modalities (such as pressure relief cushions or manual pressure relief technique).

- Has ability to tolerate a 90-135 degree range of motion at the hip, needed for reclining without triggering excessive abnormal tone.

- Is unable to tolerate an upright position in a wheelchair for long periods of time due to fatigue, shortness of breath, increased tone, or discomfort related to pressure that cannot be manually relieved.

* * *

Power Tilt-in-Space or Recline Function in Both Community Residential and Institutional Residential Settings

Power tilt-in-space or recline function may be covered if all of the following exist:

- An existing medical condition results in the inability to reposition self without the use of a power tilt or recline mechanism.

- The frequency of repositioning is clinically indicated and is an integral part of the nursing facility plan of care.

- Beneficiary requires assistance to use a manual tilt-in-space or recline system, and there are regular periods of time that the beneficiary is without assistance.

- Beneficiary requires assistance to use a manual tilt-in-space or recline system, and is able to independently care for himself when provided a power tilt-in-space or recline modification.

* * *

Wheelchair Accessories

Reimbursement may be made for separate wheelchair accessories that have designated HCPCS codes. Separate reimbursement may be considered for specific wheelchair accessory codes when provided in conjunction with the purchase of a manual wheelchair, power wheelchair, or an addition to an existing wheelchair if:

- It is required to provide safety.
- It is required for appropriate positioning.
- It is the most economical alternative.[1]

The Department's Analyst testified the Department had not received sufficient documentation to show that power stand and drive features along with corresponding accessories were medically necessary. The Department went on to argue the requested items appeared to be items of convenience for social and recreational purposes and that the corresponding documentation did not identify a specific medical need. The Department specifically pointed out the supporting documentation as indicating the Petitioner was weight bearing in lower extremities and did not suffer from pressure sores, etc. The Department also indicated the Petitioner did not show why "standing" features were needed in lieu of the approved tilt/recline feature or that less costly alternatives were tried and failed.

The Petitioner did not directly rebut the testimony and evidence presented by the Department. Although Petitioner provided a couple of reasons as to why power stand and drive features were needed, the reasons provided were not out of medical necessity. Additionally, the Petitioner did not identify or show that less costly alternatives were researched and determined to not work.

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

Given the record and available information in this case, I find that Petitioner has failed to meet this burden of proof and that the Department's decision must therefore be

[1] Medicaid Provider Manual, Medical Supplier, April 1, 2021, pp 1, 9-10, 25-27, 110-111, 113.

affirmed.

DECISION AND ORDER

I find, based on the above findings of fact and conclusions of law, finds that the Department properly denied Petitioner's prior authorization request for wheelchair accessories that included power stand and drive features as well as related stand features.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

CA/dh

Corey Arendt
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	Gretchen Backer 400 S. Pine, 6th Floor PO Box 30479 Lansing, MI 48909
DHHS Department Rep.	M. Carrier Appeals Section PO Box 30807 Lansing, MI 48933
Authorized Hearing Rep.	[redacted] [redacted] MI [redacted]
Petitioner	[redacted] [redacted] MI [redacted]
Agency Representative	Leigha Burghdoff P.O. Box 30807 Lansing, MI 48909