



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: April 29, 2022
MOAHR Docket No.: 22-001169
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

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 April 19, 2022. [REDACTED] Petitioner's mother, appeared and testified on Petitioner's behalf. Petitioner also testified as a witness on his own behalf. Allison Pool, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Adam Schlaufman, Analyst, testified as a witness for the Department.

During the telephone hearing, the Department offered one evidence packet that was admitted into the record as Exhibit A, pages 1-60. No other proposed exhibits were submitted.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a backpack holder for a power wheelchair?

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 Duchenne Muscular Dystrophy. (Exhibit A, pages 17-18).
2. In the Fall of 2022, Petitioner will begin attending college at the University of Michigan. (Testimony of Petitioner).
3. On January 28, 2022, the Department received a prior authorization request for a power wheelchair and accessories submitted on Petitioner's behalf. (Exhibit A, pages 10-40).

4. One of the requested accessories was a backpack holder. (Exhibit A, page 11).
5. With respect to the medical necessity of the backpack holder, the documentation submitted along with the prior authorization request stated:

TRU-Balance 3 Backpack Holder, pair K0108NU: Handles made to hold bags and back packs [sic]. [Petitioner] needs a place to carry books and computer between classes. He cannot wear a traditional back pack [sic] on his back as then his seat depth in the power chair would not work with the power controls and the structure of the seat would [sic] not be beneficial. He requires a way to carry and safely move his computer and books throughout a college campus. Placing these items on his lap risks the items falling to the ground. Each holder can safely hold up to 20 pounds.

Exhibit A, page 29

6. On February 22, 2022, the Department sent Petitioner written notices that the request for a wheelchair and accessories had been approved, except with respect to the backpack holder, which was denied. (Exhibit A, pages 7-8,41-42; Testimony of Analyst).
7. With respect to the reason for the denial of the backpack holder, the notice stated:

The policy this denial is based on is Sections 1.6, 1.11 and 2.47 of the Medical Supplier chapter of the Medicaid Provider Manual. Specifically:

- The documentation does not support the medical necessity for the backpack holder. Wheelchair accessories (e.g., horns, lights, bags, special colors, etc.) are not covered.
- Refer to the Medical Supplier chapter, sections: 1.6, 1.11, and 2.47.

Exhibit A, page 7

8. On March 17, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding the Department's decision. (Exhibit A, page 6).

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, with respect to medical supplies, the applicable version of the MPM states in part:

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, [sic] 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 [*sic*] 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.

* * *

1.11 NONCOVERED ITEMS

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

* * *

- Wheelchair accessories (e.g., horns, lights, bags, special colors, etc.)

*MPM, January 1, 2022 version
Medical Supplier Chapter, pages 9-10, 25-27*

Moreover, with respect to power wheelchairs and accessories specifically, the MPM also stated in part:

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| <p>Power Wheelchair or Power-Operated Vehicle (POV) in Both Community Residential and Institutional Residential Settings</p> | <p>May be covered if the beneficiary meets all of the following:</p> <ul style="list-style-type: none"> ▪ 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. |
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| <p>Wheelchair Accessories</p> | <p>Reimbursement may be made for separate wheelchair accessories that have designated HCPCS codes. Separate reimbursement</p> |
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| | <p>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:</p> <ul style="list-style-type: none">▪ It is required to provide safety.▪ It is required for appropriate positioning.▪ It is the most economical alternative. |
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*MPM, January 1, 2022 version
Medical Supplier Chapter, pages 110-114*

Here, as discussed above, Respondent approved most of Petitioner's request for a power wheelchair and accessories but denied the request for a backpack holder for the wheelchair pursuant to the above policies.

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 the 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.

As expressly provided in Section 1.11 of the Medical Supplier Chapter of the MPM, wheelchair accessories, including bags, are generally noncovered items under Medicaid.

Moreover, while reimbursement can be made for specific wheelchair accessories with designated HCPCS codes, the accessory must be required to provide safety, required for appropriate positioning, and the most economical alternative; and that criteria is not met for the backpack holder requested in this case.

The power wheelchair was approved to address Petitioner's mobility needs, including his lack of functional ambulatory status and inability to propel a manual wheelchair, and the backpack holder does not address any safety issues or appropriate positioning related to those mobility needs on their own.

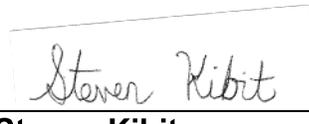
Instead, Petitioner and his representative only identified safety concerns related to Petitioner carrying a backpack for school while in his wheelchair, and, while a backpack may be necessary for school, that does not make it necessary or a safety feature for Petitioner's mobility needs.

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**.

A rectangular box containing a handwritten signature in cursive script that reads "Steven Kibit".

Steven Kibit
Administrative Law Judge

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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
P.O. Box 30479
Lansing, MI 48909
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Authorized Hearing Rep.

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