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Date Mailed: June 17, 2022
MOAHR Docket No.: 22-002093
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

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 Petitioner's request for a hearing.

After due notice, a hearing was held on June 15, 2022. [redacted] Petitioner's Supports Coordinator, appeared and testified on Petitioner's behalf. Theresa Root, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (Respondent, MDHHS or Department). Christine Wixtrom, Department Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a manual 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 Medicaid beneficiary, who has been diagnosed with spastic quadriplegic cerebral palsy and neuromuscular scoliosis of thoracic region. (Exhibit A, p 14; Testimony).

2. On March 28, 2022, the Department received a prior authorization request for a manual wheelchair for Petitioner. (Exhibit A, pp 12-36; Testimony).

3. On April 1, 2022, the Department sent Petitioner a Notification of Denial indicating that the manual wheelchair was denied. Specifically, the notice indicated:

    - The documentation is discrepant. The documentation submitted with the approval of the primary mobility device K0856 in 2018 indicates the current power wheelchair allows the beneficiary to move

independently within his home to join his family at the dinner table, go to his bedroom, move to the bathroom, and living room, and to move independently within his school. The documentation from 2018 indicates the beneficiary's family has a van with a lift.

- Documentation submitted with the approval of the primary mobility device K0856 in 2018 indicates the beneficiary cannot propel a standard wheelchair as he has no purposeful movement in his right upper extremity and severe fine motor deficits in his left hand.

- Medicaid will provide and/or maintain a single mobility device. The purchase and/or maintenance of a second mobility device for beneficiary preference or convenience will not be covered.

- Please refer to the Medical Supplier Chapter, Sections: 1.6, 1.8, 1.11, and 2.47.

(Exhibit A, pp 9-11; Testimony).

4. On May 9, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, pp 7-8).

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:

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 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.

1.6.A PRESCRIPTION REQUIREMENTS

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MDHHS reserves the right to request additional documentation from a specialist for any beneficiary and related service on a case-by-case basis if necessary to determine coverage of the service.

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1.8 PRIOR AUTHORIZATION

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MDHHS reserves the right to a final determination of whether the practitioner's submitted medical documentation sufficiently demonstrates the medical necessity for the services requested.

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1.11 NONCOVERED ITEMS

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

* * *

- Second wheelchair for beneficiary preference or convenience

Medicaid Provider Manual
Medical Supplier Chapter
January 1, 2022, pp 9-11, 14, 25-27
Emphasis added

With regard to manual wheelchairs, the MPM provides, in pertinent part:

2.47.B. STANDARDS OF COVERAGE

Manual Wheelchair in Community Residential Setting

May be covered if **all** of the following are met:

- Has a diagnosis/medical condition that indicates a lack of functional ambulatory status and ambulates

less than 150 feet within one minute with or without an assistive medical device.

- Must be able to regularly use the wheelchair throughout the day.
- Must be able to be positioned in the chair safely and without aggravating any medical condition or causing injury.
- Purchase of a wheelchair is required for long-term use (greater than 10 months).
- Must be able to use the wheelchair in the home environment (e.g., wheelchair must be able to fit through doorways and cross thresholds)
- Must identify other economic alternatives considered.
- Must have a method to propel wheelchair, which may include:
  - Ability to self-propel for at least 60 feet over hard, smooth, or carpeted surfaces.
  - The beneficiary has a willing and able caregiver to push the chair if needed.

In addition:

A **standard hemi-wheelchair** may be covered when a lower seat to the floor is required.

A **standard light-weight wheelchair** may be covered when the beneficiary is unable to propel a standard wheelchair due to decreased upper extremity strength or secondary to a medical condition that affects endurance.

A **heavy-duty standard wheelchair** may be covered if the beneficiary's weight is more than 250 pounds but does not exceed 300 pounds. (Include patient's weight in the beneficiary's file.)

An **extra heavy-duty standard wheelchair** is covered if the beneficiary's weight exceeds 300 pounds. (Include patient's weight in the beneficiary's file.)

A **high-strength light-weight or ultra-light standard**

wheelchair may be covered when required for a specific functional need.

A **back-up or secondary standard manual wheelchair** may be considered when:

- The beneficiary is primarily a power wheelchair user but needs a manual wheelchair to have access to the community or independent living.
- The beneficiary's medical condition requires a power wheelchair that cannot accommodate public transportation and, therefore, requires another transport device.

Medicaid Provider Manual
Medical Supplier Chapter
January 1, 2022, p 109

Here, the Department sent Petitioner written notice that the prior authorization request for a manual wheelchair was denied on the basis that the documentation submitted was discrepant from the documentation submitted with Petitioner's 2018 approved request for a power wheelchair, Petitioner would not be able to self-propel a manual wheelchair, and Medicaid will only provide or maintain a single mobility device, per the above policy.

The Department's witness reviewed the documentation from Petitioner's 2018 approved request for a power wheelchair and reviewed the above policy. The Department's witness pointed out that the 2018 documentation went into great detail about Petitioner's ability to operate and maneuver the power wheelchair in the house and at school (p 46) and indicated that the family had a van with a wheelchair lift, so Petitioner would be able to use the power wheelchair out in the community as well (p 37). The Department's witness also pointed out that the 2018 documentation indicated in several sections that Petitioner would not be able to operate a manual wheelchair due to his disabilities (p 39). The Department's witness also noted that the person submitting the current request did not evaluate Petitioner's use of the power wheelchair from 2018 or the wheelchair itself.

Petitioner's Supports Coordinator testified that the power wheelchair from 2018 was not brought into the current assessment for a manual wheelchair because the family does not, and has never had, a van with a wheelchair lift. As such, Petitioner's Supports Coordinator indicated there would be no way for the family to get the power wheelchair to the assessment. Petitioner's Supports Coordinator posited that this may have been a mistake in the 2018 paperwork because Petitioner was in school at that time and was able to take the power wheelchair on the school van, which had a lift. Petitioner's Supports Coordinator noted, however, that she has worked with Petitioner for over four years now and he has never been able to use the power wheelchair in the home. Petitioner's Supports Coordinator testified that the power wheelchair replaced a manual

wheelchair, which Petitioner is still forced to use, but it is no longer safe as it is over eight years old. Petitioner's Supports Coordinator indicated that the old manual wheelchair cannot be adjusted for posture and the brakes do not work, so it limits Petitioner's ability to go out into the community. Petitioner's Supports Coordinator testified that Petitioner's physical health has deteriorated since he got the power wheelchair, he is hospitalized often, and his seizure activity has increased. Petitioner's Supports Coordinator testified that Petitioner's parents have no other natural supports and cannot find paid workers due to the worker shortage. Petitioner's Supports Coordinator also noted that Petitioner's parents are experiencing their own health problems, which makes caring for Petitioner more difficult.

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 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, the undersigned Administrative Law Judge finds that Petitioner has failed to meet his burden of proof and that the Department's decision must therefore be affirmed. Based on the information provided, the Department properly determined that the documentation submitted with the request was discrepant from the documentation submitted with Petitioner's 2018 approved request for a power wheelchair. Given the information in that 2018 request, *i.e.*, that Petitioner was able to use the power wheelchair in the home and in the community, that the family had a van with a lift, and that Petitioner could not self-propel a manual wheelchair, the denial here was proper as policy clearly indicates that Medicaid will only provide one mobility device to a beneficiary. It appears from the testimony of Petitioner's Supports Coordinator that the person submitting the request in 2018 likely stretched the truth in order for Petitioner to be approved for a power wheelchair, but because that information is in the record, it must be explained before the Department can consider another mobility device. The Department's witness suggested that Petitioner could have a new assessment conducted by a physiatrist who was not involved with either the 2018 request or the most recent request, and then submit a new prior authorization. The physiatrist would have to explain Petitioner's current situation and how it differs from the documentation submitted in 2018. However, based on the information available with the original request, the denial was proper.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Petitioner's prior authorization request for a manual wheelchair.

IT IS THEREFORE ORDERED that:

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

RM/tem

Robert J. Meade
Administrative Law Judge

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

Via Electronic Mail:

DHHS Dept Contact
Gretchen Backer
400 S. Pine, 6th Floor
P.O. Box 30479
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