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Date Mailed: September 7, 2022
MOAHR Docket No.: 22-003176
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 August 30, 2022. [redacted], Petitioner's Authorized Hearing Representative and Durable Power of Attorney, appeared on behalf of Petitioner. John Lambert, Appeals Review Officer, appeared on behalf of Respondent, the Michigan Department of Health and Human Services (Department). Christine 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 a 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, residing in a Skilled Nursing Facility (SNF). (Exhibit A, p 13; Testimony.)

2. On April 26, 2022, a Prior Authorization (PA) was submitted to the Department for a wheelchair. (Exhibit A, pp 12-102; Testimony.)

3. The documentation submitted with the PA indicated Petitioner requested a normal wheelchair but did not identify a medical need for the wheelchair. (Exhibit A, pp 8, 12-102; Testimony.)

4. On May 4, 2022, the Department sent Petitioner a Notification of Denial. The notification indicated the April 26, 2022, request was denied for the following reasons:

    - MDHHS records indicate the beneficiary is currently in long term care. The medical need for custom seating was not substantiated nor requested specific for this beneficiary. The severity of the clinical indications can be accommodated by a standard seating system. When no custom seating is medically necessary, standard mobility devices (such as a tilt in space wheelchair) and other non-custom positioning options are included in the per diem charge for long term care.
    - The medical need for the tilt in space wheelchair and accessories was not provided. The letter of medical necessity was not included in this request.
    - Nursing care included in the per diem rate includes proper positioning in the wheelchair to prevent deformity.[1]

5. On July 28, 2022, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a Request for Hearing. (Exhibit A, pp 4-8.)

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.

[1] Exhibit A, pp 7-8.

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

2.47.A. DEFINITIONS

Institutional Residential Setting

An institutional residential setting refers to a nursing facility, State Veterans' Home, hospital long-term care unit, or county medical care facility.

2.47.B. STANDARDS OF COVERAGE

Manual Wheelchair in Institutional Residential Setting

Coverage and reimbursement for all standard manual wheelchairs for an institutional residential setting is included in the per diem rate.[2]

Here, the Department sent Petitioner written notice that the prior authorization request for a manual wheelchair was denied on the basis that the medical necessity requirements were not met and because Petitioner currently resided in an institutional residential setting.

Petitioner's Representative agreed the Petitioner was currently residing in an NSF but argued that the Petitioner was still in need of a wheelchair. Petitioner's Representative

[2] Medicaid Provider Manual, Medical Supplier Chapter, January 1, 2022, pp 9-11, 14, 25-27, 109.

indicated she had purchased the last two wheelchairs for Petitioner since his relocation to the NSF and that Petitioner needed a heavy duty wheelchair due to his weight.

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 the Petitioner was living in a NSF and as a result, the NSF is responsible for providing a wheelchair to Petitioner.

DECISION AND ORDER

I find, based on the above Findings of Fact and Conclusions of Law, that the Department properly denied Petitioner's prior authorization request for a wheelchair.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

CA/dh

Corey Arendt
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 Department Contact
Gretchen Backer
400 S. Pine, 6th Floor
P.O. Box 30479
Lansing, MI 48909
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Via First Class Mail:

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