



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: November 9, 2022
MOAHR Docket No.: 22-004190
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 October 20, 2022. [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, and Dr. Donovan 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 1-32. Petitioner offered one exhibit that was admitted into the record as Exhibit 1.

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 an [REDACTED] year-old Medicaid beneficiary who has been diagnosed with Lennox-Gastaut Syndrome, epilepsy, and visual impairment. (Exhibit A, page 12).
2. On August 18, 2022, the Department received a prior authorization request for an Abram's 200 Twin Hot Pink Safety Sleeper on Petitioner's behalf. (Exhibit A, pages 10-25).

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

She has outgrown her safe sleep bed and needs one that she cannot fall out of and one that will keep her safe. Her family also travels to see her brother who is in the military. She needs a bed that they can take with them to keep her safe when they travel.

Exhibit A, page 12

4. On September 6, 2022, the Department sent Petitioner written notice that the request had been denied on the basis that enclosed bed systems are not covered when the purpose is to restrain the beneficiary due to behavioral conditions, caregiver need or convenience; 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, this item being requested is a sleep safety traveling canopy not a sleep safe enclosed bed. (Exhibit A, pages 6-9).
5. On September 15, 2022, 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).
6. The medical order documentation included in the exhibits states the following: "The present mobility device, features and components continue to meet the beneficiary's current medical conditions and functional needs." (Exhibit A, p.19)

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	<p><i>An Enclosed Bed System may be covered if the following applies:</i></p> <ul style="list-style-type: none"> ▪ <i>There is a diagnosis/medical condition (e.g., seizure activity) which could result in injury in a standard bed, crib, or hospital bed; and</i> ▪ <i>There are no economic alternatives to adequately meet the beneficiary's needs.</i>
Documentation	<p>The documentation must be less than six months old and include:</p> <ul style="list-style-type: none"> ▪ 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).

	<ul style="list-style-type: none"> ▪ 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	<p>The Enclosed Bed System is considered a purchase only item.</p> <p>For Youth Beds, refer to the Hospital Beds subsection of this chapter.</p>

*MPM, April 1, 2022 version
Medical Supplier Chapter, pages 9-10, 45-46
(italics added for emphasis)*

Here, as discussed above, Petitioner's request for an Abram's Safety Sleeper 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 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 her 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's present mobility device, features and components continue to meet the beneficiary's current medical conditions and functional needs and testified how that specific information refutes the stated reasons for the request and demonstrates a lack of medical necessity.

Petitioner's mother argues that her daughter has outgrown her current bed even though the requested safety sleeper is smaller in length. Petitioner's mother argued that the safety sleeper is not only needed for travel but also for day-to-day use. Petitioner's mother disputed that her current bed accommodates her daughter's needs in the home. The supporting documentation does not support the Petitioner's position.

With respect to the decision at issue in this case, 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**.

AM/vc



Aaron McClintic
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
Lansing, MI 48909
MDHHS-PRD-Hearings@michigan.gov

DHHS Department Representative

M. Carrier
Department Community Health
MDHHS Appeals Section
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Agency Representative

Emily Piggott
DCH Appeals Section
222 N. Washington Square
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]