



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: December 21, 2023  
MOAHR Docket No.: 23-007977  
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 December 19, 2023. Petitioner appeared on her own behalf. Johanna Novak, General Counsel, appeared on behalf of Respondent, Upper Peninsula Health Plan (Department).

Exhibits:

Petitioner	None
Department	A – Hearing Summary

**ISSUE**

Did the Medicaid Health Plan properly deny Petitioner's request for incontinence pads?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of July 20, 2023, Petitioner was Medicaid beneficiary enrolled with the Department. (Exhibit A; Testimony.)
2. On July 20, 2023, Department received a prior authorization request from an in-network durable medical equipment provider, requesting 600

incontinence pads per month for unspecified urinary incontinence, on behalf of Petitioner. (Exhibit A.)

3. On July 31, 2023, the prior authorization request was sent to the Department's Medical Director for review. The request was denied as the member did not meet the standards of coverage. Specifically, Petitioner did not have a medical condition resulting in incontinence; and there was no response to a bowel/bladder training program, and the medical condition being treated results in incontinence, and beneficiary would not benefit from or has failed a bowel/bladder training program. (Exhibit A; Testimony.)
4. On August 1, 2023, the Department mailed a negative action notice to Petitioner. (Exhibit A.)
5. On September 11, 2023, Petitioner verbally requested an appeal of the August 1, 2023, notice of denial. (Exhibit A.)
6. On September 18, 2023, the Department received additional medical records to review. (Exhibit A.)
7. On September 20, 2023, the Department sent Petitioner's prior authorization request along with Petitioner's medical records to an independent physician for review. (Exhibit A; Testimony.)
8. On September 21, 2023, the independent physician reviewer upheld the August 1, 2023, denial. (Exhibit A; Testimony.)
9. On September 21, 2023, the Department sent Petitioner a notice of denial. (Exhibit A.)
10. On October 31, 2023, Petitioner was disenrolled from the Department due to a Medicaid eligibility issue. (Exhibit A; Testimony.)
11. On November 16, 2023, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Hearing File.)

### **CONCLUSIONS OF LAW**

The Medical Assistance Program (MA) 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 statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

On May 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans.

The Respondent is one of those Medicaid Health Plans.

## 2.18 ENCLOSED BED SYSTEMS<sup>1</sup>

<p><b>Definition</b></p>	<p>Incontinent supplies are items used to assist individuals with the inability to control excretory functions.</p> <p>The type of coverage for incontinent supplies may be dependent on the success or failure of a bowel/bladder training program. A bowel/bladder training program is defined as instruction offered to the beneficiary to facilitate:</p> <ul style="list-style-type: none"> <li>• Independent care of bodily functions through proper toilet training.</li> <li>• Appropriate self-catheter care to decrease risk of urinary infections and/or avoid bladder distention.</li> <li>• Proper techniques related to routine bowel evacuation.</li> </ul>
<p><b>Standards of Coverage</b></p>	<p><b>Diapers, incontinent pants, liners, and belted/unbelted undergarments without sides</b> are covered for individuals age three or older if both of the following applies:</p> <ul style="list-style-type: none"> <li>• A medical condition resulting in incontinence and there is no response to a bowel/bladder training program.</li> <li>• The medical condition being treated results in incontinence, and beneficiary would not benefit or has failed a bowel/bladder training program.</li> </ul>

\* \* \*

In this case, the Department denied Petitioner's request for incontinent pads after it was determined that Petitioner did not meet the standards of coverage.

Petitioner argued she met the standards of coverage and more specifically that she had tried a bowel/bladder program without success. Petitioner however acknowledged the medical records provided to the Department for review failed to reflect her having tried and failed a bowel/bladder program.

<sup>1</sup> Medicaid Provider Manual, Medical Supplier, April 1, 2023, pp 58-59.

Based upon the information presented, I find the Petitioner has failed to meet her burden of proof and as such, find sufficient evidence to affirm the Department's actions in this case.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly denied the Petitioner's request.

**IT IS, THEREFORE, ORDERED** that:

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

CA/pe

  
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**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

**Via Electronic Mail:**

**Petitioner**

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

**Community Health Representative**

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**DHHS Department Contact**

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