

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

[REDACTED]

APPEAL NO. 11F-08791

PETITIONER,

Vs.

AGENCY FOR HEALTH
CARE ADMINISTRATION
CIRCUIT: 07 St. Johns
UNIT: AHCA

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing telephonically in the above-referenced matter on January 13, 2012 at 12:00 noon.

APPEARANCES

For the Petitioner: [REDACTED] mother.

For the Respondent: [REDACTED] registered nurse (RN) specialist with ACHA.

STATEMENT OF ISSUE

At issue is the Agency's action denying the petitioner's request for an EIO Pushchair and accessories through Medicaid.

PRELIMINARY STATEMENT

By notice dated August 4, 2011, the Agency informed the petitioner that her request for an EIO Pushchair through Medicaid was denied because the provider did not use the proper wheelchair code (E1232); an improper miscellaneous equipment code (E1399) was used erroneously. Subsequent to the denial, the petitioner submitted another request for the EIO Pushchair and chair base with the proper wheelchair code (E1232). By notice dated October 25, 2011, the Agency informed the petitioner that her request was denied because the manufacturer of the EIO Pushchair has not registered it as reimbursable medical equipment with the Medicaid Program.

On November 7, 2011, the petitioner timely requested a hearing to challenge the Agency's decision.

The petitioner was not present; her mother testified on her behalf. Present as a witness for the Agency was [REDACTED], physical therapist with the Bureau of Medicaid. The respondent submitted exhibits which were entered into evidence as Respondent's Composite Exhibit 1. The petitioner did not submit exhibits.

FINDINGS OF FACT

1. The petitioner (age 3) is a Florida Medicaid recipient.
2. The petitioner was born four weeks premature. Her diagnoses include hypertension, cardiac ventricular-septal defect, a cardiac block, and global developmental delay. She is non-verbal and non-ambulatory. She is incapable of

sitting up on her own. She feeds and receives medications via a gastro-tube. The petitioner lives in the family home with her mother.

3. In June 2011, the petitioner requested that Medicaid fund an EIO Pushchair, a soft sitter and chair base.

4. Medicaid services and equipment must be medically necessary as determined through a prior authorization process. Ms. [REDACTED] completes the prior authorization process for wheelchair reimbursements through Medicaid for the agency.

5. In August 2011, the Agency denied the petitioner's request that Medicaid fund the EIO pushchair because the request form did not contain the proper wheelchair/mobility device code, E1232. The request form contained the miscellaneous Medicaid equipment code, E1399.

6. Subsequent to the August 2011 denial, the petitioner submitted a second request for the EIO Pushchair; the request form contained the correct wheelchair equipment code E1232.

7. In October 2011, the Agency denied the petitioner's request because the EIO Pushchair is not registered as reimbursable medical equipment with Medicaid.

8. [REDACTED] explained that equipment manufacturers must submit a registration request to Medicaid for each piece of equipment it wishes to be registered as medical equipment eligible for Medicaid reimbursement. Upon approval by Medicaid, the equipment is assigned a Healthcare Common Procedure Coding System (HCPCS) code number that is used for Medicaid billing and reimbursement. All

registered medical equipment is listed on a Medicaid website in alphabetical order. The EIO Pushchair requested by the petitioner is not listed on the website; this piece of equipment does not have a HCPCS code. The EIO Pushchair is considered a non-medical stroller. Medicaid denied reimbursement for this pushchair.

9. [REDACTED] explained the petitioner's EIO pushchair would have been denied, even if it had the proper Medicaid registration code, because the petitioner does not have any growth room in this chair. The EIO thigh length is 17.5 inches, the petitioner's thigh length is currently 17 centimeters; she would have less than half an inch of growth in this pushchair. Medicaid reimburses for one wheelchair every 3 – 5 years. The petitioner would not have 3 – 5 years of growth in this chair. [REDACTED] explained further that the accessories, soft sitter and stand, are considered furniture, and therefore are not medically necessary. Medicaid will only reimburse for medically necessary equipment.

10. [REDACTED] noted for the record that the petitioner, based on her medical condition, qualifies for a correctly registered wheelchair or perhaps even a custom built wheelchair through Medicaid; however, the manufacturer needs to submit a request for the proper equipment to Medicaid.

11. The petitioner's mother chose EIO Pushchair herself after seeing it in a magazine. The Agency asserts that the standard process is to have a physician prescribe a wheelchair. The patient is referred to a wheelchair manufacturer for a needs assessment. Based on this assessment, the manufacturer decides which

wheelchair meets the patient's needs and then submits a request to Medicaid for funding. The petitioner did not follow those steps; she initiated the request on her own.

12. The petitioner's mother explained that she requested the pushchair, soft sitter and stand because the soft sitter fits into the pushchair to allow more upright seating. The soft sitter can also be attached to the stand for sitting at a dining room table like a standard chair. The combination of chair and sitter will allow the petitioner more head control, allow her to sit up fully while being fed versus sitting on her mother's lap during feeding, this is how she is currently fed. The EIO Pushchair will also allow the petitioner to travel out in the community more frequently and with greater ease. The petitioner's mother was not aware of the other wheelchair options available to her through Medicaid.

CONCLUSIONS OF LAW

13. By agreement between the Agency for Health Care Administration (AHCA) and the Department of Children and Families, AHCA has conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to §120.80 Fla. Stat.

14. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code § 65-2.056.

15. In accordance with Fla. Admin. Code § 65-2.060 (1), the burden of proof was assigned to the petitioner.

16. Florida Administrative Code Rule 59G-1.010(166) defines medical necessity, as follows:

'Medically necessary' or 'medical necessity' means that the medical or allied care, goods, or services furnished or ordered must:

(a) Meet the following conditions:

1. Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;
2. Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs;
3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;
4. Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available; statewide; and
5. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider. ...

(c) The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.

17. The cited authority explains that medical goods and services must be medically necessary and cannot be in excess of the patient's needs.

18. Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook (DME Handbook) addresses Prior Authorizations on pages 2-19 and 2-20, stating in relevant part:

Prior Authorization Documentation

For all DME services and DME items requiring prior authorization (PA), at a minimum, item specific documentation along with the following documentation must be submitted to the appropriate office with the authorization request form: a statement clarifying why the recipient's current equipment no longer meets his current needs; and full description

of the item(s) requested; and manufacturer's name and address; and model; and serial number or item number for non-custom manufactured item(s); and a listing of all parts, components, attachments, or special features of the requested durable medical equipment; and a statement clarifying whether the requested equipment or component is new, used or refurbished; and a statement clarifying whether the requested equipment is to be purchased, rented, or purchased as a rent-to-purchase item (if the requested equipment is a rental or rent-to-purchase item, the total quantity of monthly rental units must be identified on the authorization request form); and documentation regarding the length of time (number of months or years) the requested item will be medically necessary to meet the recipient's current needs; and DME provider's sales invoice, which must include the following information:

(1) A list of custom and non-custom components that are described by HCPCS procedure codes that are listed on the current DME and Medical Supply Services Provider Fee Schedules and the scheduled fee for each component; (emphasis added)

(2) The invoice subtotal;

(3) A list of the remaining components not listed on the DME and Medical Supply Services Provider Fee Schedules and the provider's requested price for each individual component; and

(4) The invoice total, excluding all shipping and handling fees; and Description of the current items or equipment being used or currently owned by the recipient of the same or similar type requested, indicating whether the equipment is rented or was purchased specifically for the recipient, the age of the equipment; and whether and when the recipient's equipment was purchased by Medicaid; and a signed and dated prescription or Certificate of Medical Necessity (CMN) specifying the type of durable medical equipment prescribed from the recipient's treating physician...

19. The cited authority explains that all equipment funded through Medicaid must have a Healthcare Common Procedure Coding System (HCPCS) code number that is used for billing and reimbursement.

20. The DME Handbook addresses wheelchair reimbursement on pages 2-91 through 2-96 stating in relevant part:

Wheelchairs

A wheelchair is a seating device system mounted on wheels used to transport a non-ambulatory individual or an individual with severely limited mobility.

Service Requirements

Medicaid will reimburse for a wheelchair when the recipient is non-ambulatory or has severely limited mobility and it is medically documented that a wheelchair is medically necessary to accommodate the recipient's physical characteristics...

21. The cited passage sets forth the requirements for funding of a wheelchair through Medicaid.

22. The Agency denied the petitioner's request for funding of an EIO pushchair and accessories through Medicaid because the EIO Pushchair does not have a HCPCS code. A Medicaid registration code, a HCPCS code, is required for all equipment funded through Medicaid. The Agency's decision in this matter was correct.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied.

NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the agency. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308-5403. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this _____ day of _____, 2012,
in Tallahassee, Florida.

Leslie Green
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal_Hearings@dcf.state.fl.us

Copies Furnished To: [REDACTED] Petitioner
[REDACTED], Area 4 Field Office Manager

FINAL ORDER (Cont.)

11F-08791

PAGE - 10