

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

FILED
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OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-00524

PETITIONER,

Vs.

AGENCY FOR HEALTH
CARE ADMINISTRATION
CIRCUIT: 18 Brevard
UNIT: AHCA

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on March 13, 2014 at 1:30 p.m.

APPEARANCES

For the Petitioner:  pro se

For the Respondent: Doretha Rouse, Registered Nurse Specialist

STATEMENT OF ISSUE

At issue is the Respondent's action in denying Petitioner's request for a customized wheelchair.

PRELIMINARY STATEMENT

The Agency for Health Care Administration ("AHCA" or "Agency") has contracted with eQHealth Solutions, Inc., ("eQHealth") for prior authorization review of Durable Medical Equipment ("DME") and Medical Supplies for Medicaid fee-for-service

recipients. A prior service authorization request is submitted by a provider along with information and documentation required to make a determination of medical necessity.

Appearing as witnesses for the Petitioner were Tara Downs, Medicaid Waiver Support Coordinator, and Jill Vermilye, Rehabilitation Coordinator with Brownings Pharmacy & Healthcare. Appearing as a witness for the Respondent was Darlene Calhoun, M.D., Physician Consultant with eQHealth Solutions.

Respondent's exhibits 1 through 12 were admitted into evidence. Petitioner's exhibit 1 was entered into evidence.

The record was left open until March 20, 2014 for Petitioner to submit a copy of the features on her existing wheelchair. This information was filed on March 19, 2014. The record was left open until March 28, 2014 for Respondent to file a response if chosen. A response was filed on March 20, 2014.

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. Petitioner is a 29 year-old female with a medical history remarkable for cerebral palsy and Ehlers-Danlos Syndrome. She is incontinent of bowel and bladder. Petitioner requires assistance with activities of daily living ("ADLs") and transfers.
2. The Petitioner is a recipient under Florida's Medicaid State Plan program and was eligible to receive Medicaid services at all times relevant to this proceeding.
3. On December 10, 2013, a DME request for a customized wheelchair, Permobil M300 service code K0014, was submitted by Brownings Pharmacy & Health Care, Inc. totaling \$26,901.

4. On December 16, 2013, eQHealth denied the request. The reason for the denial was the clinical information provided did not support Medicaid's medical necessity definition. It was determined a custom wheelchair is warranted, but the request for "Center Mounted Power Elevating Leg Rests" and "Power Transfer Leg Rests" was considered excessive. eQHealth determined the patient's needs could be met by standard side-mounted leg rests.

5. The quoted price for the center mounted power elevating leg rests is \$2,995 and the power transfer leg rests \$3,395.

6. Upon a reconsideration review dated December 27, 2013, eQHealth upheld the original decision.

7. Nurse Practitioner's Order dated September 18, 2013 indicates cerebral palsy with diplegia and patient is non-ambulatory.

8. Physical exam visit dated October 10, 2013 by [REDACTED] ARNP shows diagnoses as Cerebral Palsy, Chronic Low Back Pain, Muscle Contractures, Bilateral Venous Insufficiency, History of DVT, History of Falls, Ehlers-Danlos Syndrome, Recurrent UTI, Fecal and Urine Incontinence, and Depression-Chronic. The exam shows Petitioner has a history of falls, muscle contractures, and distal hamstring and hip abductor releases as a teenager. Upper extremity strength is noted as within functional limitations. It was noted Permobil is the only manufacturer that offers power transfer leg rests. The exam further states in part:

She require a power wheelchair that has articulating elevated leg rest, that allow leg rest, elevation and articulation, which provides leg extension while elevating. These leg rests improves her circulation and reduced to prevent the edema, which can led [sic] to tissue breakdown as well as blood clot promotion, and also allows for passive stretching and range of

motion for tight hamstrings, also provides change in position due to pain and neuropathy, and improve bladder and bowel function. The leg rest can improve ground clearance to navigate thresholds and still allows the legs to achieve a straight 90 degree position with typical driving condition. Elevation moves her legs from 0 to 90 degrees, also improves leg length with elevation. With extends a foot plate providing mechanical advantage for safe transfers, promote sitting tolerance by increasing or decreasing flexion of the hip and knees.

9. Custom Wheelchair Evaluation Form, dated August 9, 2013 and signed by physical therapist June Denhartog, shows past surgeries as distal hamstrings and hip adductor releases, as well as femoral heads rotated to keep them in socket.

10. Petitioner's existing wheelchair, Permobil C300, was purchased in April 2006, via Medicaid, and is not drivable because it keeps "shorting out." Petitioner asserts she placed a request for a wheelchair with reclining back and elevated leg rest due to diagnoses of stenosis, bulging disc, and history of DVT. She asserts she is trying to obtain the same features on her existing wheelchair. Petitioner has no history of pressure sores on her legs related to contact with her present wheelchair.

11. Jill Vermilye, the provider, asserts the manufacture, Permobil, does not make wheelchairs with side-mounted leg rests. She explained the seating specialist, at Brownings Pharmacy & Health Care, would have attended the evaluation with the physical therapist and would have been aware of the different models to assist in making a recommendation of the wheelchair.

12. Respondent's medical witness explained the center mounted power elevating leg rests were not approved because the submitted information did not provide appropriate medical documentation. The information failed to show that the recipient is unable to abduct her hips sufficiently to place her legs on the side-mounted

leg rests, which is typically due to hypotonia or related to some form of skeletal abnormality. The submitted information further failed to show that traditional foot mounts on the wheelchair would be too large for usage in the Petitioner's home. This is typically proven by submitting dimensions for the home.

13. Because the necessary information was not provided with the request, it is the Agency's position that the request is excessive and standard side-mounted leg rests could meet the Petitioner's needs. Respondent's medical witness explained that the Agency is not trying to deny the Petitioner a wheelchair but Medicaid guidelines require that the least costly alternative be approved. Although a customized wheelchair is warranted, if the requested features are not considered medically necessary then the request must be denied. Respondent's medical witness explained a provider may always modify their request.

CONCLUSIONS OF LAW

14. The Department of Children and Families Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to Florida Statutes § 120.80. The Office of Appeal Hearings provided the parties with adequate notice of the administrative hearing.

15. Florida Medicaid State Plan is authorized by Chapter 409, Florida Statutes, and Chapter 59G, Florida Administrative Code. The program is administered by the Agency for Health Care Administration.

16. This hearing was held as a de novo proceeding pursuant to Rule 65-2.056, Florida Administrative Code.

17. The burden of proof was assigned to the Petitioner in accordance with Rule 65-2060(1), Florida Administrative Code.

18. The standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence, as provided by Rule 65-2.060(1), Florida Administrative Code.

19. 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.

20. The Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook- July 2010 (Medicaid Handbook) has been incorporated by reference into Florida Administrative Code Rule 59G-4.070.

21. The Medicaid Handbook defines Durable Medical Equipment as “equipment that can withstand repeated use, serves a medical purpose, and is appropriate for use

in the recipient's home as determined by the Agency for Health Care Administration (AHCA)."

22. The Medicaid Handbook describes a Wheelchair as "a seating device system mounted on wheels used to transport a non-ambulatory individual or an individual with severely limited mobility."

23. Page 2-91 of the Medicaid Handbook states in part:

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.

Medicaid will reimburse and provide maintenance for only one wheelchair (regardless of type) or power operated vehicle (POV) procedure code per recipient, per maximum limit period, as stated in the DME and Medical Supply Services Provider Fee Schedule.

The following types of wheelchairs and POVs devices require prior authorization:

- Customized manual wheelchairs,
- Customized power wheelchairs,
- Non-custom power wheelchairs,
- Motorized scooters (POV), and
- Power Conversion kits.

Note: See the DME and Medical Supply Services Provider Fee Schedules for the maximum limits.

24. Regarding Customized Wheelchair Documentation, Pages 2-92 through 2-93 of the Medicaid Handbook states:

Medicaid will reimburse for a medically-necessary, customized wheelchair that is specially constructed for the individual recipient.

Medicaid will not approve a customized wheelchair or wheelchair custom upgrade without the medical necessity documentation that establishes the recipient's inability to perform activities of daily living within the recipient's home. Activities of daily living include bathing, eating, toileting, dressing,

transferring in and out of a bed or chair, and moving about within the home.

Prior authorization is required for all custom wheelchairs, power wheelchairs, power operated vehicles (POV), and modifications and custom upgrades. The following information must be submitted with the prior authorization request:

- Either the Medicaid Custom Wheelchair Evaluation form (Appendix A) or another document that contains the same information that is requested on the form; and
- Medical necessity documentation; and
- Written documentation describing the physical status of the recipient with regard to mobility, self-care status, strength, cognitive and physical abilities, coordination, and activity limitations; and
- Wheelchair evaluations must be performed by and the evaluation information completed by or dictated by a registered physical or occupational therapist or a certified physiatrist and documented on either the Custom Wheelchair Evaluation, AHCA Med Serv Form 015, July 2007 (Appendix A) or another document that contains the same information that is requested on the form. The documentation must list a date of completion that is not more than six (6) months old and include the therapist's or physiatrist's signature and license number; and
- Discussion of the recipient's current mobility equipment and why the current equipment is no longer appropriate; and
- What physical improvement(s) can be anticipated; and
- What physical deterioration may be prevented with the type of wheelchair and specific features requested; and
- Listing of each customized feature required for unique physical status; and
- Specification of the medical benefit of each customized feature requested; and
- Identification of the principle place(s) the wheelchair will be used; and
- Itemized provider invoice, listing the provider's price requested for parts and labor (labor is included in the cost of the initial fabrication of a custom wheelchair or custom components); and
- List the source(s) for the accessories and modifications requested and the manufacturer's suggested retail price for each item that is not described by a procedure code with a scheduled fee on the DME and Medical Supply Services Provider Fee Schedule; and
- Itemized invoice listing provider's source of accessory and modification parts and manufacturers suggested retail pricing

(MSRP) for the parts, and listing the procedure codes and scheduled fees for the components that are described on the DME and Medical Supply Services Provider Fee Schedule; and

- Documentation of the recipient's home accessibility for the customized manual or motorized wheelchair requested; and
- Measurements of the recipient; and Weight of recipient; and
- Measurements of all exterior doorways of the recipient's residence; and
- Measurements of all interior doorways of the recipient's residence to be used by the recipient; and
- Documentation that the requested equipment is the least costly alternative to meet the recipient's needs must be available upon request.

25. Florida's medical necessity definition limits services to those that provide a significant benefit; are individualized and specific to the person and condition being treated, are not excessive; are not experimental or investigational; excludes services whenever a less costly, equally effective, service can be safely furnished; and are not primarily provided as a convenience.

26. The Petitioner is non-ambulatory and requires the use of a wheelchair. The Agency acknowledges that a customized wheelchair is medically necessary; at issue are the features requested to accommodate Petitioner's physical characteristics.

27. It is the Agency's position while a customized wheelchair is warranted, the center mounted power elevating leg rests and power transfer leg rests are not medically necessary. Based on the analysis of Respondent's medical expert, the submitted information failed to show that Petitioner is unable to abduct her hips sufficiently to place her legs on traditional side-mounted leg rests. Neither does the information show that traditional foot mounts would be too large for usage in the Petitioner's home. Therefore, the medical expert argued these features are excessive and would not be

the least costly alternative. The undersigned has given full weight to the medical expert's analysis.

28. The controlling authorities make clear that Medicaid services must be individualized, specific, consistent with confirmed diagnoses or symptoms, and not in excess of the patient's needs. Likewise, furnished equipment must be effective and the least costly alternative. Based on the lack of documentation to further support the requested features, the undersigned is unable to conclude the Durable Medical Equipment, including all features, is medically necessary at this time.

29. After careful review of the evidence submitted and the relevant laws set forth above, the undersigned concludes the Agency's action was proper and the Petitioner's burden was not met.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Petitioner's appeal is denied and the Agency's action is affirmed.

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 petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 14th day of April, 2014,

in Tallahassee, Florida.



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