
M.M. v. Div. of Medical Assistance and Health Services
Cite as 2 *N.J.A.R.* 145

M.M.,
Petitioner

v.

**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES,**
Respondent.

Decided December 12, 1979

Initial Decision

SYNOPSIS

Petitioner's request for an easy lift chair was excluded from Medicaid coverage under *N.J.A.C.* 10:49-1.4 and 1.5 since the item was not medically necessary for diagnosis or treatment of a disease or injury. The chair was required for family convenience and was environmental equipment for which there is no reimbursement.

GEIGER, ALJ:

Petitioner requests relief from the administrative determination of the Division of Medical Assistance and Health Services denying an American StairGlide Easy Lift Chair, pursuant to agency regulations, *N.J.A.C.* 10:49-1.5, "General Exclusions."

The matter was transmitted to the Office of Administrative Law for determination as a contested case, pursuant to *N.J.S.A.* 52:14F-1 *et seq.*

Petitioner requested a hearing on September 27, 1979. After notice to all parties, a hearing was held on December 3, 1979, in the Office of Administrative Law, Trenton, New Jersey, before Administrative Law Judge Maria J. Geiger. All parties were given an opportunity to be heard and to cross-examine witnesses. The issue for which the hearing was requested was the denial by the Local Medicaid Assistance Unit (LMAU) of Mercer County for a requested American StairGlide Easy Lift Chair requested by petitioner's family and stated to be a medical necessity by petitioner's physician, Howard L. Levenson, M.D. At the time of the hearing, no specific citations were provided by the physician representing the LMAU. However, the LMAU representative did state that there was in existence a list of specific exclusions for which New Jersey State Medicaid would not pay. The same LMAU representative stated that upon consultation with the regional administrator, it was decided that the piece

of equipment involved in the issue of the instant hearing was analogous to environmental equipment, such as an air conditioner. The administrative law judge has researched the New Jersey Administrative Code and has determined that the decision was most probably based upon the following two citations of policy:

General Exclusion . . . There are certain additional specific exclusions and limitations which are detailed in the appropriate provider manual sections. Payment is not made for: 1) Any service, admission or item which is not medically required for diagnosis or treatment of a disease, injury or condition . . . (*N.J.A.C.* 10:49-1.5)

Environmental Equipment (a) Under the program, no reimbursement concerning environmental equipment is allowed. (b) Environmental equipment is considered to be equipment which: 1. Can withstand repeated uses; 2. Is primarily and customarily not used to serve a medical purpose (and) 3. Generally is not medically useful to a person in the absence of an illness or injury. (*N.J.A.C.* 10:54-1.8)

Petitioner's daughter, a Mrs. D., represented her at the hearing. She stated that her mother is eighty years of age, very obese, and suffers from acute osteoarthritis. Furthermore, she is unable to bend her knees and hips, suffers from chronic phlebitis and arteriosclerosis. Mrs. D. stated that her father, who is eighty-six years of age and suffering from heart problems, emphysema, diabetes, and circulatory problems, is at home with petitioner. She stated he is unable to lift his wife on and off her chair. Mrs. D. presented a letter from petitioner's physician in which the physician states that, "It is extremely necessary for this patient to have an Easy Lift recliner. . . . Once seated in a chair, it is almost impossible for her to raise herself to a standing position. This is aggravated by her obesity. Please consider this request a medical necessity."

Mrs. D. stated that she hoped every consideration would be given to providing her mother with the Easy Lift chair, so that she could maintain as much of her independence as possible, and also relieve her husband of the anxiety of trying to lift her.

The physician representing the agency stated that because of the cost of the item in question, approximately \$745, prior authorization was required for the purchase from the LMAU. The denial was made for more than one reason. First, it was deemed by the LMAU that the chair was not for the sole purpose of the patient, but also for the convenience of the family. Second, the Easy Lift chair was denied because it was not on an approved list of equipment for which Medicare pays. Third, the chair in question is considered by the LMAU and the regional director to be a kind of "Barcalounger." Consequently, it falls under the description given of

environmental equipment, and is analogous to an air conditioner, for which Medicaid never pays. Furthermore, the physician representing the LMAU stated he had advertising pictures, diagrams and copy describing the Easy Lift chair in detail. In his opinion, the chair was not a piece of medical equipment.

Upon questioning, petitioner's daughter stated other members of the family had provided therapy for her mother, but the family had not availed itself of any home health arrangements. A member of the family had rigged up some equipment by which her mother could assist herself in standing from her bed and in the bathroom. The family was greatly concerned that the mother receive the Easy Lift chair because they felt it would help to maintain her in her home.

Subsequent to the hearing, petitioner's daughter sent further written commentary to the agency physician and the administrative law judge. The commentary does not, in the opinion of the judge, materially affect testimony given during the hearing.

Based upon the foregoing, **I FIND:**

1. Petitioner's physician recommended providing her with an Easy Lift recliner because he stated that he wished this request considered a "medical necessity." New Jersey State Medicaid has a regulation which speaks to requests of such a nature by physicians. It is contained in *N.J.A.C.* 10:49-1.4, and reads as follows:

The items and services provided to covered persons will not normally be limited in duration or amount. Any limitation imposed will be consistent with the medical necessity of the patient's condition, as determined by the attending physician . . . in accordance with standards generally recognized by health professionals. . . .

2. The LMAU physician, as well as the regional director, also a physician, have administratively determined that the Easy Lift chair is not a piece of medical equipment, but rather environmental equipment.

3. Medicaid excludes payment for certain items which are not medically required for diagnosis or treatment of a disease, injury or condition.

4. The Easy Lift chair is required for the convenience of both the patient and the family, but not for the diagnosis or treatment of a disease, injury or condition.

Based upon the facts adduced at the hearing in this proceeding and the applicable regulations, **I CONCLUDE**, pursuant to the *N.J.A.C.* 10:49-1.5, *N.J.A.C.* 10:54-1.8, and *N.J.A.C.* 10:49-1.4, that the agency acted in accordance with accepted policy.

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After Reviewing this Initial Decision, The Director,
Division of Medical Assistance and Health Services on
February 11, 1980 issued the following Final
Decision:

The Director adopts and incorporates the Finding of Fact and Conclusions
and Recommendations set forth in the Initial Decision.