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Assistant Commissioner

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

I.V.R.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	FINAL AGENCY DECISION
	:	
HORIZON NJ HEALTH,	:	OAL DKT. NO. HMA 04681-23
	:	
RESPONDENT.	:	

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the Office of Administrative Law (OAL) case file. Neither party filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 28, 2023, in accordance with an Order of Extension.

This matter arises from Horizon's March 21, 2023, decision to deny Petitioner's request for home Durable Medical Equipment (DME). R-1. Petitioner appealed Horizon's decision through Horizon's Internal Appeal process. On April 11, 2023, Horizon upheld their original decision which denied the request for DME. R-3.

Additionally, this matter went through an independent peer review by a doctor board certified in pediatrics and neurology with special qualification in child neurology. The conclusion of the report was that the submitted information did not support the medical necessity criteria for the requested DME, specifically an OBI feeding device. R-2.

After concluding the internal administrative review process, this matter was transferred to the Office of Administrative Law. On July 31, 2023, a fair hearing was held. The record closed on September 6, 2023, after the parties were given the opportunity to submit briefs. Based upon my review of the record, I hereby ADOPT the Initial Decision affirming Horizon NJ Health's denial of petitioner's request for an OBI feeding device.

Petitioner is a 17-year-old boy who was born with Duchenne muscular dystrophy with scoliosis. ID at 2. As a result, he cannot independently feed himself due to motor limitations. Ibid. He resides with his parents and receives almost 24-hour care. Ibid. During one of his visits to Children's Hospital of Philadelphia, petitioner used the OBI feeding system. ID at 4. Subsequently, occupational therapists issued two medical necessity letters. ID at 5. In summary, the letters state that the feeding device allows petitioner to maximize his capability for self-initiated functional eating which allows eating to be an enjoyable social experience, improving his quality of life. R-1 and R-2.

The Division of Medical Assistance and Health Services (DMAHS) has promulgated rules regarding coverage as well as rules regarding non-coverage for various inpatient and outpatient services. N.J.A.C. 10:52-1.8(a). Non-covered services include "any service or item which is not medically necessary for the prevention, diagnosis, palliation, rehabilitation or treatment of a disease, injury, or condition." N.J.A.C. 10:52-1.8(a)3(i). "Medically necessary services" is defined in N.J.A.C. 10:74-1.4 as:

Services or supplies necessary to prevent, diagnose, correct, prevent the worsening of, alleviate, ameliorate, or cure a physical or mental illness or condition; to maintain health; to prevent the onset of an illness, condition, or disability; to prevent or treat a condition that endangers life or causes suffering or pain or results in illness or infirmity; to prevent the deterioration of a condition; to promote the development or maintenance of maximal functioning capacity in performing daily activities, taking into account both the functional capacity of the individual and those functional capacities that are appropriate to individuals of the same age; to prevent or treat a condition that threatens to cause or aggravate a handicap or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the enrollee. The services provided, as well as the treatment, the type of provider and the setting, are reflective of the level of services that can be safely provided, are consistent with the diagnosis of the condition and appropriate to the specific medical needs of the enrollee and not solely for the convenience of the enrollee or provider of service and in accordance with standards of good medical practice and generally recognized by the medical scientific community as effective. Course of treatment may include mere observation or, where appropriate, no treatment at all. Experimental services or services generally regarded by the medical profession as unacceptable treatment are deemed not medically necessary. Medically necessary services provided are based on peer-reviewed publications, expert pediatric, psychiatric, and medical opinion, and medical/pediatric community acceptance. In the case of pediatric enrollees, this definition applies, with the additional criteria that the services, including those found to be needed by a child as a result of a comprehensive screening visit or an inter-periodic encounter, whether or not they are ordinarily covered services for all other Medicaid/NJ FamilyCare enrollees, are appropriate for the age and health status of the individual and that the service will aid the overall physical and mental growth and development of the individual and the service will assist in achieving or maintaining functional capacity.

Horizon Blue Cross Blue Shield of New Jersey has Health Policy 31C.070.23, which applies to durable medical equipment, medical supplies, orthotics and prosthetics. R-5 at 4. The applicable parts of the policy state that DME must be medically necessary and appropriate, along with prescribed by the primary care physician or a specialist. Ibid.

The record does not support a finding that the DME is medically necessary. In the Initial Decision, the Administrative Law Judge (ALJ) found that petitioner does not require the OBI feeding device to improve or maintain his medical condition. ID at 8. The ALJ also found that the OBI feeding device would instead provide some independence to

petitioner while also providing his caretakers freedom to attend to other matters. Ibid.
Therefore, the OBI feeding device is not medically necessary. Ibid. I concur.

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that petitioner has failed to demonstrate that the OBI feeding device is medically necessary and therefore, Horizon NJ Health properly denied petitioner's request for the home Durable Medical Equipment.

THEREFORE, it is on this 12th day of DECEMBER 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.

carol grant OBO

Jennifer Langer Jacobs

Digitally signed by carol grant

OBO Jennifer Langer Jacobs

Date: 2023.12.12 10:30:17

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Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services