



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Assistant Commissioner

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

D.J.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES,
RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 11417-2020

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Respondent filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Decision is July 25, 2021 in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner’s request for Goods and Services provided under the Supports Program, a component of the Comprehensive Medicaid Waiver (CMW) that permits Medicaid beneficiaries eligible through the Division of Developmental Disabilities (DDD) to access “services, equipment or supplies, not otherwise provided through generic resources, the Supports Program, or through the

State Plan, which address an identified need (including improving and maintaining the participant's opportunities for full membership in the community) and meet the following requirements: the item or service would decrease the need for other Medicaid services; and/or promote inclusion in the community; and/or increase the participant's safety in the home environment; and, the participant does not have the funds to purchase the item or service or the item or service is not available through another source." Section 17.9.1 Supports Program Manual (Manual).

Petitioner is seeking to have the cost of a "Bunkie Bed" funded by the Supports Program.¹ ID at 3. DDD requested additional information about the request and ultimately denied the funding on November 1, 2019 as it did not meet the description of Goods and Services in the Manual. J-2.

The Initial Decision reversed the denial of bed and found that the request met the criteria for Goods and Services and that it is not available for another source, namely Medicaid. ID at 18. For the reasons that follow, I REVERSE the Initial Decision allowance of the use of Petitioner's Supports Program budget to purchase this bed in this instance. However, I FIND that this bed is a covered service under Medicaid and order that DMAHS staff take action necessary to reverse the denial by Amerigroup, Petitioner's managed care organization.

First, there were two agencies that denied approval of the bed – one by DDD under Good and Services and the other by Amerigroup. The only matter at issue here is the denial by DDD, however, during the hearing DDD claimed its denial was based

¹ Both parties used the term "Bunkie Bed" as well as well as a "full sized, manual adjustable Bunkie board hospital bed with 30" mattress and high side board". It is presumed that both terms refer to the same item.

the failure to appeal Amerigroup's denial.² It appears that an internal appeal was taken of Amerigroup's decision. P-4. But the nature and extent of the documents reviewed by Amerigroup is not part of the record. Indeed, the Initial Decision notes that the record is incomplete with regard to the requests for approval filed with both Amerigroup and DDD. ID at 4.

As the agency head for the Medicaid program, I am authorized to render Final Agency Decisions on all matters concerning Medicaid funded services. Had the Amerigroup denial been appealed, that proceeding would have been reviewed in due course. The findings in this matter are incorrect as they are based on both an incomplete record as well as testimony that mischaracterized the MCO appeals process and State Plan benefit. In this matter, the parties are disputing whether the Bunkie bed would be considered durable medical equipment (DME). DME is defined as:

[A]n item or apparatus, other than hearing aids and certain prosthetic and orthotic devices, including customized DME, modified DME and standard DME, which has all of the following characteristics:

1. Is primarily and customarily prescribed to serve a medical purpose and is medically necessary for the beneficiary for whom requested;
2. Is generally not useful to a beneficiary in the absence of a disease, illness, injury, or disability; and
3. Is capable of withstanding repeated use (durable) and is nonexpendable; for example, hospital bed, oxygen equipment, wheelchair, walker, suction equipment, and the like.

N.J.A.C. 10:59-1.2.

The limited information in the record about the item requested shows that the

² This reason was basis for the denial in October 2020. However, the appeal concerns the denial of the second request for a Bunkie bed which was denied in November 2020. That denial does not mention the failure to appeal the Amerigroup denial.


Bunkie bed meets all these characteristics. Amerigroup's denial that it was not medically necessary as it was not a standard hospital bed does not seem to have taken this regulation into consideration. I cannot find any basis that would have caused Amerigroup's determination to be upheld had the matter been appealed.

Rather it appears that DDD's determination that this was a covered service under Medicaid was correct. Thus, I am REVERSING the finding that the Bunkie bed met the requirement that it was not available from any other source. As Petitioner has waited an extensive time for this DME, I am instructing the DMAHS Medical Director to take necessary action to ensure that this covered DME is provided by Amerigroup as soon as possible.

THEREFORE, it is on this ^{23rd} day of JULY 2021,

ORDERED:

That the Initial Decision is hereby REVERSED as set forth above.



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