STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: April 17, 2018
[redacted]
AGENCY: MAP
FH #: 7740826M

In the Matter of the Appeal of

[redacted]

from a determination by the New York City Department of Social Services

DECISION AFTER FAIR HEARING

JURISDICTION

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of Title 18 NYCRR, (hereinafter Regulations), a fair hearing was held on October 9, 2018, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

[redacted]

For the Managed Long-Term Care Plan (Centers Plan for Healthy Living)

On papers only - appearance waived by the Office of Administrative Hearings

ISSUE

Was the March 8, 2018 determination of the Managed Long-Term Care Plan, Center's Plan for Healthy Living, to deny authorization for coverage of a motorized wheelchair for the Appellant correct?

FINDINGS OF FACT

An opportunity to be heard having been afforded to all interested parties and evidence having been taken and due deliberation having been had, it is hereby found that:

1. The Appellant, age 54, has been enrolled in a Medicaid Managed Long Term Care Plan through Centers Plan for Healthy Living.

2. A request was made to the Plan for an authorization of coverage of a motorized wheelchair for the Appellant.

3. By initial notice of determination dated January 11, 2018, the Plan determined to deny coverage for a motorized wheelchair for the Appellant on the grounds that the clinical information which was provided to the Plan does not support the medical necessity of a powered wheelchair.

4. The Appellant requested an internal appeal.

5. By final notice of determination dated March 8, 2018, the Plan determined to uphold its determination to deny coverage for a motorized wheelchair for the Appellant.

6. On April 17, 2018, this hearing was requested to review the Plan's determination dated March 8, 2018.

APPLICABLE LAW

Part 438 of 42 Code of Federal Regulations (CFR) pertains to provision of Medicaid medical care, services and supplies through Managed Care Organizations (MCOs), Prepaid Inpatient Health Plans (PIHPs), Prepaid Ambulatory Health Plans (PAHPs) and Primary Care Case Managers (PCCMs), and the requirements for contracts for services so provided.

Section 438.210 of 42 CFR Subpart D provides, in pertinent part:

> (a) Coverage - Each contract with an MCO, PIHP, or PAHP must do the following:
>
> (1) Identify, define, and specify the amount, duration, and scope of each service that the MCO, PIHP, or PAHP is required to offer.
>
> (2) Require that the services identified in paragraph (a)(1) of this section be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under fee-for-service Medicaid, as set forth in Sec. 440.230.

Section 365-a of the Social Services Law provides in part:

> 2. "Medical Assistance" shall mean payment of part or all of the cost of medically necessary medical, dental and remedial care, services and supplies, as authorized by this title or the regulations..., which are necessary to prevent, diagnose, correct or cure conditions in the person that cause acute suffering, endanger life, result in illness or infirmity, interfere with such person's capacity for normal activity, or threaten some significant handicap and which are furnished an eligible person in accordance with this title and the regulations...

Section 364.2 of the Social Services Law provides in part, as follows:

The Department of Health shall be responsible for…

(b) establishing and maintaining standards for all non-institutional health care and services rendered pursuant to this title…

The New York State Medicaid Program, Durable Medical Equipment, Orthotics, Prosthetics and Supplies, Procedure Codes and Coverage Guidelines manual sets forth general clinical and coverage criteria for wheeled mobility equipment. It provides, in part, that a motorized wheelchair is covered if the member does not have sufficient upper extremity function to self-propel an optimally-configured manual wheelchair to perform MRADLs (mobility related activities of daily living) during a typical day.

DISCUSSION

The credible evidence establishes that the Appellant has been enrolled in a Medicaid Managed Long Term Care Plan through Centers Plan for Healthy Living. The credible evidence also establishes that a request was made to the Appellant's Plan for coverage for a motorized wheelchair for the Appellant. The credible evidence further establishes that by initial notice of determination dated January 11, 2018, the Plan determined to deny coverage for a motorized wheelchair for the Appellant. It further establishes that the Appellant requested an internal appeal and by final notice of determination dated March 8, 2018, the Plan determined to uphold its determination to deny coverage for a motorized wheelchair for the Appellant. The Plan's initial determination was made on the grounds that the clinical information which was provided to the Plan does not support the medical necessity of a powered wheelchair.

In support of this determination, the Plan submitted a written statement which acknowledges that the Appellant has a standard (manual) wheelchair. At the hearing the Appellant testified that her manual wheelchair had been covered by the Medicaid Program, which testimony is not refuted by the Plan. Based thereon, the credible evidence establishes that the Appellant's medical need for a wheelchair is not in dispute. The only question is if the Appellant currently needs a motorized wheelchair.

The New York State Medicaid Program, Durable Medical Equipment, Orthotics, Prosthetics and Supplies, Procedure Codes and Coverage Guidelines manual sets forth general clinical and coverage criteria for wheeled mobility equipment. It provides, in part, that a motorized wheelchair is covered if the member does not have sufficient upper extremity function to self-propel an optimally-configured manual wheelchair to perform MRADLs (mobility related activities of daily living) during a typical day.

At the hearing, the Plan presented a uniform assessment system evaluation of the Appellant's personal care needs which is based upon an in-person examination of the Appellant by a nurse assessor on March 31, 2018. With regard to walking, the Uniform Assessment System evaluation dated March 31, 2018, of the Appellant's personal care needs establishes a need for maximal assistance, which the assessment identifies as a need for weight-bearing

support, including lifting of limbs, by 2+ helpers – OR - weight-bearing support for more than 50% or more of subtasks. With regard to locomotion, which includes walking and/or wheeling, and, if in a wheelchair, self-sufficiency once in a chair, the nurse reported that the Appellant has total dependence assistance, identified as a need for full performance by others during all episodes.

The evidence as presented by both parties has been carefully considered. The credible evidence fails to establish that the Appellant has sufficient upper extremity function to self-propel an optimally-configured manual wheelchair to perform MRADLs (mobility related activities of daily living) during a typical day. The Appellant's request for coverage for a motorized wheelchair is plausible, persuasive and unrefuted by the Plan. Therefore, the Plan's determination to deny the Appellant's request for an authorization of coverage for an automated wheelchair is not correct.

DECISION AND ORDER

The determination by Centers Plan for Healthy Living to deny coverage for a motorized wheelchair for the Appellant is not correct and is reversed.

Centers Plan for Healthy Living is directed to:

1. Approve the authorization for coverage of a motorized wheelchair for the Appellant.

2. Provide the Appellant with the information and documentation necessary regarding selection and purchase of an appropriate motorized wheelchair.

Should the Managed Long-Term Care Plan need additional information from the Appellant in order to comply with the above directives, it is directed to notify the Appellant promptly in writing as to what documentation is needed. If such information is required, the Appellant must provide it to the Managed Long-Term Care Plan promptly to facilitate such compliance.

As required by Section 358-6.4 of the Regulations, the Managed Long-Term Care Plan must comply immediately with the directives set forth above.

FH# 7740826M

DATED: Albany, New York
10/17/2018

NEW YORK STATE
DEPARTMENT OF HEALTH

By

Commissioner's Designee