

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of	)	
	)	
L D	)	OAH No. 21-0205-MDX
<hr style="width: 40%; margin-left: 0;"/>	)	Agency No.

**DECISION**

**I. Introduction**

The applicant in this case, L D, is both a Medicaid and Medicare recipient. He has a power wheelchair paid for by the Medicaid program. The issue in this case involves Mr. D’s request for Medicaid coverage for pneumatic snow tires and LED light kit for his replacement power wheelchair. He asserts that these are required so that it can function better and more safely in the winter months in City A where he resides. The Division of Health Care (Division) services denied coverage of these accessories as not being medically necessary and not needed for home use in association with his power wheelchair.

Mr. D requested a hearing challenging the denial. The hearing was held telephonically on February 21, 2021. Mr. D represented himself and was his sole witness. Laura Baldwin, a Division employee, represented the Division. Karen Benson, a Director with the Division, also testified on its behalf.

The evidence in this case shows that the requested power wheelchair pneumatic snow tires and LED light kit are not medically necessary for the diagnosis and treatment of an illness or injury. Nor are they needed for use of the wheelchair in the home. As a result, the Division’s decision denying coverage for these power wheelchair components is AFFIRMED.

**II. Facts**

Mr. D is a quadriplegic resulting from a motor vehicle accident in 1994. He requires the use of a power wheelchair.<sup>1</sup> He currently has a power wheelchair which was approved and paid for by the Medicaid program.<sup>2</sup> He is also a Medicare recipient.<sup>3</sup>

This case concerns Mr. D’s request for prior authorization seeking to add pneumatic snow tires and an LED light kit to a new power wheelchair he is seeking to obtain. Coverage for the new wheelchair is not the subject of this dispute.<sup>4</sup> Instead, the only issue is whether he is

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<sup>1</sup> Ex. F; Mr. D testimony.  
<sup>2</sup> Mr. D testimony.  
<sup>3</sup> Mr. D testimony.  
<sup>4</sup> Ex. F.

eligible for Medicaid coverage for adding pneumatic snow tires and an LED light kit to the power wheelchair.<sup>5</sup>

Mr. D does not deny that the pneumatic snow tires and a LED light kit are not medically necessary for his use of the power wheelchair.<sup>6</sup> Instead, he contends that these items are reasonably required so that he can use the wheelchair to become integrated into the community. He further contends that they are required to make his wheelchair functionally safe to operate in the City A area which experiences many months of very dark and snowy conditions.<sup>7</sup>

As Mr. D testified, he frequently encounters unplowed sidewalks and parking areas which would make using a power wheelchair without snow tires difficult or impossible. Because of unplowed areas, he is often required to venture into the streets where vehicles are operating. He has had many close encounters with vehicles because of not being easily seen in dark conditions. People have often questioned him as to why he does not have lights on his chair. He contends that the lighting and tires are therefore reasonably necessary for the safe operation of his wheelchair within the community.<sup>8</sup>

Regarding the justification for the power wheelchair's pneumatic snow tires and LED light kit, the power wheelchair assessment report submitted with the coverage request provides as follows:

**Snow tires**

Mr. D lives in Alaska that often has snow and ice for a large part of the year. These tires will improve his access to his community environment by maintaining traction and thus increase his ability to perform his community ADLs including attending medical appointments.

**LED light kit**

Due to living in Alaska, Mr. D requires an LED light package to both improve his ability to see and to be seen by others including passing motorists when in parking lots or sidewalks. During the winter months, there can be as little as 5 hours of daylight and the light package will improve his safety and ability to access the community with decreased risk of injury.<sup>9</sup>

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<sup>5</sup> Exs. A, D.

<sup>6</sup> Mr. D testimony.

<sup>7</sup> Mr. D testimony.

<sup>8</sup> Mr. D testimony.

<sup>9</sup> Ex. F, p. 17.

At the hearing in this matter, there was testimony indicating that Mr. D currently receives personal care assistance together with transportation and escort services through the Personal Care Services Program and Alaskans Living Independently waiver services.<sup>10</sup> These programs provide some assistance to Mr. D in leaving his home to medical appointments and for other miscellaneous errands.<sup>11</sup> However, they do not cover many of the daily trips he makes outside of the home, particularly during the non-winter months.<sup>12</sup> Such trips including going to the bank, Post Office, pharmacy, visiting friends, social events, etc.<sup>13</sup>

Ms. Benson testified that there is a distinction under the Medicaid regulations between the coverage available for durable medical equipment, such as a power wheelchair, regarding use inside the home versus use outside the home.<sup>14</sup> She indicated that the Medicaid regulations cover the use of such equipment within the home. While use of such equipment outside of the home is not specifically prohibited, it is viewed as a non-covered convenience. As such, the regulations provide coverage for in home applications of a power wheelchair, but not for applications outside of the home.<sup>15</sup>

Further, while items such as pneumatic snow tires and a LED light package may be helpful, they are not medically necessary. Items which may have a secondary benefit concerning safety such as a power wheelchair lap belt, are frequently covered by Medicaid. However, they are not covered because of their safety benefits, but instead, are covered because they are deemed medically necessary to improve posture and avoid other medical conditions and complications that might result without their use.<sup>16</sup>

Finally, Ms. Benson testified that 7 AAC 120.205(h)(2) specifically references an individual's eligibility for coverage of durable medical equipment when the individual is covered by both Medicaid and Medicare, as Mr. D is in this instance. Those regulations incorporate and reference Medicare national and local coverage determinations. Those determinations in turn only provide consideration of power wheelchairs and components as applied within the home.<sup>17</sup> Consequently, Ms. Benson concluded that the pneumatic snow tires and LED lighting kit, while

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<sup>10</sup> Ms. Benson testimony; Mr. D testimony.

<sup>11</sup> Mr. Benson testimony.

<sup>12</sup> Mr. D testimony.

<sup>13</sup> Mr. D testimony.

<sup>14</sup> Ms. Benson testimony.

<sup>15</sup> Ms. Benson testimony.

<sup>16</sup> Ms. Benson testimony.

<sup>17</sup> Ms. Benson testimony.

potentially useful and helpful to Mr. D's regarding safety and functionality, do not serve a medical function. Further, the items are not reasonably necessary for use of the power wheelchair within his home. Because of these considerations, she asserts that the denial of coverage was proper.<sup>18</sup>

The record was kept open in this case to allow the Division to supplement it with the Medicare national and local coverage determinations referenced during the hearing by Ms. Benson and in 7 AAC 120.205(h)(2).<sup>19</sup>

### III. Discussion

In this case, there is no issue regarding whether the pneumatic snow tires and LED light kit are medically necessary. As Mr. D acknowledged during the hearing, they are not.<sup>20</sup> Instead, the issue is whether coverage exists because they are reasonably necessary for his integration in the community outside of the home and to make his power wheelchair safe and functionally operational outside of the home? Or alternatively, as the Division contends, is it correct in only considering whether the items are a necessary component of his power wheelchair inside the home? Unfortunately for Mr. D, and as analyzed below, the Division is correct in its interpretation of the applicable regulations.

Alaska regulation at 7 AAC 120.200(b) addresses when an item of durable medical equipment is covered by Medicaid. Specifically, the equipment may be covered if, among other things, it is medically necessary *and* appropriate for use in the recipient's home, school or community.<sup>21</sup> Further, 7 AAC 120.205(h)(2) provides that when a recipient is eligible both under Medicaid and Medicare, coverage will not be provided for durable medical equipment and related items unless they are medically necessary as determined by evidence-based clinical protocols and Medicare national and local coverage determinations. Following the hearing in this case, the Division supplied the applicable Medicare national coverage determinations.

Regarding the additional documentation provided and relied upon by the Division, the Medicare Benefit Policy Manual provides that "durable medical equipment" is equipment which

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<sup>18</sup> Ms. Benson testimony.

<sup>19</sup> Order Regarding the Close of the Record, dated February 24, 2021.

<sup>20</sup> Mr. D testimony.

<sup>21</sup> 7 AAC 120.200(b) (emphasis added).

“[i]s appropriate for use in the home.”<sup>22</sup> In addressing the policy regarding such covered and non-covered durable medical equipment, the following discussion is helpful:

## **2. Equipment Presumptively Nonmedical**

Equipment which is primarily and customarily used for a nonmedical purpose may not be considered “medical” equipment for which payment can be made under the medical insurance program. This is true even though the item has some remote medically related use. For example, in the case of a cardiac patient, an air conditioner might possibly be used to lower room temperature to reduce fluid loss in the patient and to restore an environment conducive to maintenance of the proper fluid balance. Nevertheless, because the primary and customary use of an air conditioner is a nonmedical one, the air conditioner cannot be deemed to be medical equipment for which payment can be made.<sup>23</sup>

Similarly, the Medicare National Coverage Determinations Manual specifically defines durable medical equipment as being equipment appropriate for use in a patient’s home.<sup>24</sup> Further, the manual also addresses power wheelchair coverage criteria. Those criteria specifically relate to use of the power wheelchair within the patient’s home as opposed to outside of the home.<sup>25</sup>

Therefore, because there has been no medical necessity demonstrated concerning Mr. D’s need for pneumatic snow tires or a LED lighting kit for his power wheelchair, nor has it been demonstrated that those items are reasonably necessary for use of his power wheelchair in his home, they are not items for which Medicaid coverage exists. While it is certainly understood that those items may be extremely useful and beneficial to Mr. D, including for the safe and reasonable operation of his power wheelchair outside of the home, unfortunately, there is no basis for Medicaid coverage on those considerations alone.

## **IV. Conclusion**

The Division’s denial of Mr. D’s prior authorization request for pneumatic snow tires and a LED light kit for his power wheelchair is affirmed.

DATED: This 5<sup>th</sup> day of April 2021.

By: Signed  
Z. Kent Sullivan  
Administrative Law Judge

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<sup>22</sup> Medicare Benefit Policy Manual, Chap. 15, Sec. 110; Additional Regulations Provided by the Division, dated February 24, 2021, at 7 (Additional Regulations).

<sup>23</sup> Medicare Benefit Policy Manual, Chap. 15, Sec. 110; Additional Regulations at 8.

<sup>24</sup> Medicare National Coverage Determinations Manual § 280.1; Additional Regulations at 15.

<sup>25</sup> Medicare National Coverage Determinations Manual § 280.3; Additional Regulations at 24-28.

## Adoption

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 16<sup>th</sup> day of April, 2021.

By: *Signed* \_\_\_\_\_  
Name: Z. Kent Sullivan  
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]