



STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION  
OFFICE OF FAIR HEARINGS

FILED

Jun 18, 2024, 11:21 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

vs.

AHCA Case No.: 24-FH0525

Plan ID No.: [REDACTED]

UNITED HEALTHCARE OF FLORIDA, INC.,

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Fair Hearing on the instant case on May 10, 2024, at 2:01 p.m. Eastern Standard Time (“EST”).

**APPEARANCES**

For the Petitioner:

[REDACTED]

Petitioner’s Authorized Representative

For the Respondent:

Susan Frischman  
State Partner Account Manager  
United Healthcare of Florida, Inc.

**STATEMENT OF ISSUE**

The issue is whether Petitioner proved by a preponderance of the evidence that Respondent’s denial of Durable Medical Equipment (“DME”), and more specifically a canopy and reclining back accessory for a power wheelchair was incorrect.<sup>1</sup>

**PRELIMINARY STATEMENT**

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<sup>1</sup> The Petitioner’s request for the wheelchair was approved, along with certain medically necessary accessories, including a “tilt-in-space” accessory.

All parties appeared for the Fair Hearing telephonically. The Petitioner's Authorized Representative [REDACTED], (" [REDACTED] ") appeared and testified at the Fair Hearing. Susan Frischman, State Partner Account Manager ("Ms. Frischman") for United Healthcare of Florida, Inc., ("UHC" or "Respondent") appeared on behalf of the Respondent. Dr. Albena Baharieva, ("Dr. Baharieva") Medical Director for the Respondent also testified at the Fair Hearing.

Ms. Marielisa Amador, Medical Healthcare Program Analyst appeared on behalf of AHCA for observation purposes only.

Prior to the Fair Hearing, Respondent sent to the Office of Fair Hearings and Petitioner a five hundred and twenty-three (523)-page evidence package that was admitted into evidence without objection, is identified as "Respondent's Composite Exhibit 1" and is maintained in the in the Office of Fair Hearings document management system as:

"24-FH0525 Respondent's Statement of Matters Part 1 (Pgs. 1-21).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 2 (Pgs. 22-25).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 3 (Pgs. 26-32).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 4 (Pgs. 33-36).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 5 (Pgs. 37-40).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 6 (Pgs. 41-45).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 7 (Pgs. 46-50).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 8 (Pgs. 51-55).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 9 (Pgs. 56-59).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 10 (Pgs. 60-66).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 11 (Pgs. 67-70).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 12 (Pgs. 71-74).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 13 (Pgs. 75-79).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 14 (Pgs. 80-148).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 15 (Pgs. 149-168).pdf;  
"24-FH0525 Respondent's Statement of Matters Part 16 (Pgs. 169-205).pdf; and  
"24-FH0525 Respondent's Statement of Matters Part 17 (Pgs. 206-523).pdf;

## FINDINGS OF FACT

1. Petitioner is an enrolled member of UHC Community Plan effective March 1, 2023. See Respondent's Composite Exhibit 1, page 1. UHC is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in the state of Florida.

2. As of the date of the Fair Hearing, Petitioner a [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] See Respondent's Composite Exhibit 1, pages 39 and 89. The Petitioner with a history of [REDACTED]  
[REDACTED]  
[REDACTED] See Respondent's Composite Exhibit 1, page 134. The Petitioner is completely dependent on caregivers for all activities of daily living, requires close monitoring for [REDACTED]  
[REDACTED]. *Id.*

3. On November 27, 2023, the Petitioner submitted a prior authorization request for a pediatric wheelchair that was approved with the exception of a canopy accessory and a reclining back feature. See Respondent's Composite Exhibit 1, pages 4-8. On December 16, 2023, UHC issued a Notice of Adverse Benefit Determination ("NABD") wherein the canopy accessory and the reclining back feature was denied as medically necessary. *Id.* The NABD explained the denial of Petitioner's requested canopy and relining back feature as follows, in pertinent part:

We made our decision because:

- We determined that your requested services are not medically necessary because the services do not meet the reason(s) checked below: (See Rule 59G-1.010).
- Must be needed to protect life, prevent significant illness or disability, or alleviate severe pain.
- Must be individualized, specific, consistent with symptoms or diagnosis of illness or injury and not be in excess of the patient's needs.
- Must meet accepted medical standards and not be experimental or investigational.
- Must be able to be the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide.
- Must be furnished in a manner not primarily intended for convenience of the recipient, caretaker, or provider.  
(The convenience factor is not applied to the determination of the medically necessary level of private duty nursing (PDN) for children under the age of 21.)
- The requested service is not a covered benefit.
- Other authority

The facts that we used to make our decision are: Your child's doctor asked for a wheelchair with features. These are requested to help your child's mobility. This is because your child has a condition that can cause muscle weakness.

Clinical Rationale for Decision: We reviewed your child's health plan rules. To approve this entire request, your child's records must clearly show all the following:

- the features have a medical purpose for you
- the features are not duplicate requests
- simpler features are not available that have the same or similar purpose

We also reviewed your child's records that were sent to us.

The following do not serve a primary medical purpose:

- the canopy since it is not a medical item
- the reclining back (this lays a person flat) since this tilt-in-space wheelchair can help with weight shifting alone

The above features are not approved. They are not medically necessary. The wheelchair and remaining features are approved. Please speak with your child's doctor if you have any questions

Criteria Guideline: The criteria we used to make our decision is: Florida Medicaid Administrative Code: Section 59G-4.070

Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2010, Chapters 1 and 2

Purpose and Definitions: Durable Medical Equipment

General Service Requirements: Service Criteria

Medical Necessity Definition and Documentation Requirements

Prior and Post Authorization and Exceptions to the Service Limits: Prior Authorization Documentation, Maximum Limit Exceptions

Equipment Purchase, Trade, or Rental: Purchasing New Equipment

Pressure Ulcer Care, Pads and Wheelchair Cushions

Wheelchairs

UnitedHealthcare Community Plan Medical Policy Durable Medical Equipment, Orthotics, Medical Supplies and Repairs/Replacements Policy Number: CS032.Y Effective Date: December 1, 2023

UnitedHealthcare Community Plan Medical Policy Mobility Devices, Options and Accessories Policy Number: CS184.D Effective Date: June 1, 2023

InterQual 2023, October 2023 Release, CP: Durable Medical Equipment Wheelchairs, or Strollers, Pediatric

InterQual 2023, October 2023 Release, CP: Durable Medical Equipment Wheelchair Cushions or Seating System

Local Coverage Determination (LCD): Manual Wheelchair Bases (L33788)

Local Coverage Article: Manual Wheelchair Bases -Policy Article (A52497)

Local Coverage Determination (LCD): Wheelchair Seating (L33312)

Local Coverage Article: Wheelchair Seating -Policy Article (A52505)

Local Coverage Determination (LCD): Wheelchair Options/Accessories (L33792)

Local Coverage Article: Wheelchair Options/Accessories -Policy Article (A52504)

*Id.*

4. On December 29, 2023, the Petitioner requested a plan appeal. See Respondent's Composite Exhibit 1, page 222. On January 24, 2024, UHC issued a Notice of Plan Appeal Resolution ("NPAR") upholding the denial of Petitioner's request a canopy accessory and reclining back feature for [REDACTED] wheelchair. See Respondent's Composite Exhibit 1, at 222-227. The NPAR states the following explanation, in pertinent part:

As part of our review we look at information you or your provider gave us. We also look at your benefits. Based on our review of your appeal, we have determined that the service you requested will not approved.

Fatima Hussain, MD, specializing in Family Medicine, reviewed the appeal. This doctor did not make the original decision. The decision was based on 1. Florida Administrative Code 59G-4.070, Chapters 1 and 2, Effective 09/28/2010 Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2010, Chapters 1 and 2 Chapter 1 Provider Qualifications and Enrollment Purpose and Definitions: Durable Medical Equipment Chapter 2 Covered Services, Limitations and Exclusions General Service Requirements: Service Criteria Medical Necessity Definition and Documentation Requirements Prior and Post Authorization and Exceptions to the Service Limits: Prior Authorization Documentation Prior and Post Authorization and Exceptions to the Service Limits: Maximum Limit Exceptions Equipment Purchase, Trade, or Rental: Purchasing New Equipment Pressure Ulcer Care, Pads and Wheelchair Cushions Wheelchairs 2. UnitedHealthcare Community Plan Medical Policy Durable Medical Equipment, Orthotics, Medical Supplies and Repairs/Replacements, Policy Number: CS032.Y, Effective Date: December 1, 2023 3. UnitedHealthcare Community Plan Medical Policy Mobility Devices, Options and Accessories, Policy Number: CS184.D, Effective Date: June 1, 2023 4. Local Coverage Determination (LCD): Wheelchair Options/Accessories (L33792), Effective Date 05/16/2023 5. Local Coverage Article: Wheelchair Options/Accessories -Policy Article (A52504), Effective Date 10/26/2023 6. Early and Periodic Screening, Diagnostic and Treatment services (EPSDT) - A Guide for States: Coverage in the Medicaid Benefit for Children and Adolescents, Page 9, Effective 06/2014.

Your appeal for items for your child s approved mobility device was reviewed by a medical director, Dr. Richard M. Gordon. He is a medical doctor. He is board certified in Rehabilitation. We looked at your records. We looked at your health plan s rules. Your child is a [REDACTED]. We have

decided that what you asked for cannot be approved. This does not meet health plan rules. It says for these items to be approved they must be medically necessary. The canopy cannot be approved since it is not a medical item. The reclining back (this lays a person flat) cannot be approved. This is because this tilt-in-space wheelchair can help with weight shifting alone. Based on my professional judgment, we are upholding the denial as not medically necessary. The records from your doctor did not show that these items are medically needed. This is why we cannot approve what you asked for. Please talk about this with your doctor. I have reviewed this case as a Florida licensed physician and agree with this decision. Fatima Hussain, MD Appeals and Grievance Medical Director Board Certification in Family Medicine January 23, 2024

The plan pays for required services and supplies provided for the purpose of preventing, diagnosing or treating a sickness, injury, disease or symptoms. The plan authorizes UnitedHealthcare to determine whether a service or supply is eligible for coverage under the plan.

*Id.*

5. The UHC Interqual Review Summary for durable medical equipment wheelchair cushions or seating systems for pediatric size wheelchair that are rigid, adjustable, tilt-in-space, without seating systems (December 2023), and states approval is appropriate for a tilt-in-space manual wheelchair when a patients' mobility cannot be met with a cane or walker, that the mobility limitation can be met with a manual wheelchair, that the home provides adequate access and maneuvering space for a manual wheelchair, and a manual wheelchair can be propelled by the patient or the caregiver. See Respondent's Composite Exhibit 1, pages 202-205.

6. The UHC Community Plan Policy for Mobility Devices, Options and Accessories, Policy Number CS184.D (June 2023) provides the Plan policy a was cited by the Respondent in their denial of the requested manual wheelchair accessories and provides medical necessity clinical coverage criteria for pediatric wheelchairs and strollers. See Respondent's Composite Exhibit 1, page 403-416. The Instructions for Use of the policy provides as follows;

This Medical Policy provides assistance in interpreting UnitedHealthcare standard benefit plans. When deciding coverage, the federal, state or contractual requirements for benefit plan coverage must be referenced as the terms of the federal, state or contractual requirements for benefit plan coverage may differ from the standard benefit plan. In the event of a conflict, the federal, state or contractual requirements for benefit plan coverage govern. Before using this policy, please check the federal, state or contractual requirements for benefit plan coverage. UnitedHealthcare reserves the right to modify its Policies and Guidelines as necessary. This Medical Policy is provided for informational purposes. It does not constitute medical advice.

UnitedHealthcare may also use tools developed by third parties, such as the InterQual<sup>®</sup> criteria, to assist us in administering health benefits. The UnitedHealthcare Medical Policies are intended to be used in connection with the independent professional medical judgment of a qualified health care provider and do not constitute the practice of medicine or medical advice.

See Respondent's Composite Exhibit 1, page 415.

7. The Local Coverage Determination for wheelchair options and accessories was cited by the Respondent in their denial and provides in-part as follows:

...

The purpose of a Local Coverage Determination (LCD) is to provide information regarding "reasonable and necessary" criteria based on Social Security Act § 1862(a)(1)(A) provisions. See Respondent's Composite Exhibit 1, page 419.

#### Coverage Indications, Limitations, and/or Medical Necessity

For any item to be covered by Medicare, it must 1) be eligible for a defined Medicare benefit category, 2) be reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, and 3) meet all other applicable Medicare statutory and regulatory requirements. *Id.*

...

A power seating system – tilt only, recline only, or combination tilt and recline – with or without power elevating leg rests will be covered if criteria 1, 2, and 3 are met and if criterion 4, 5, or 6 is met: The beneficiary meets all the coverage criteria for a power wheelchair described in the Power Mobility Devices LCD; and

1. A specialty evaluation that was performed by a licensed/certified medical professional, such as a physical therapist (PT) or occupational therapist (OT) or practitioner who has specific training and experience in rehabilitation wheelchair evaluations of the beneficiary's seating and

positioning needs. The PT, OT, or practitioner may have no financial relationship with the supplier; and

2. The wheelchair is provided by a supplier that employs a RESNA-certified Assistive Technology Professional (ATP) who specializes in wheelchairs and who has direct, in-person involvement in the wheelchair selection for the beneficiary.
3. The beneficiary is at high risk for development of a pressure ulcer and is unable to perform a functional weight shift; or
4. The beneficiary utilizes intermittent catheterization for bladder management and is unable to independently transfer from the wheelchair to bed; or
5. The beneficiary utilizes intermittent catheterization for bladder management and is unable to independently transfer from the wheelchair to bed; or
6. The power seating system is needed to manage increased tone or spasticity.

If these criteria are not met, the power seating component(s) will be denied as not reasonable and necessary. See Respondent's Composite Exhibit 1, page 421.

...

A manual fully reclining back option (E1226) is covered if the beneficiary has one or more of the following conditions:

1. The beneficiary is at high risk for development of a pressure ulcer and is unable to perform a functional weight shift; or
2. The beneficiary utilizes intermittent catheterization for bladder management and is unable to independently transfer from the wheelchair to the bed.

If these criteria are not met, the manual reclining back will be denied as not reasonable and necessary. See Respondent's Composite Exhibit 1, page 422.

...

8. On February 13, 2024, the Petitioner requested a Fair Hearing regarding the denial of the canopy accessory and reclining back accessory for the Petitioner's pediatric wheelchair. On April 3, 2024, the undersigned Hearing Officer issued a notice to all parties of record rescheduling the Fair Hearing to be conducted by telephone on May 10, 2024, at 2:00 p.m. EST.

9. The Petitioner's Authorized Representative testified that the Petitioner has been diagnosed with [REDACTED] and because of that and the medications [REDACTED] needs, a canopy is required

for [redacted] wheelchair for whenever [redacted] is outside. [redacted] further testified that the reclining back for the Petitioner's wheelchair is needed for positioning when the Petitioner is experiencing [redacted], and for when the Petitioner needs to be laid down because [redacted]

10. Dr. Baharieva testified for the Respondent and stated that the Petitioner's [redacted] activity can be addressed by the already approved tilt-in-space feature of [redacted] wheelchair. With respect to the canopy option for the Petitioner's wheelchair, Dr. Baharieva stated the Petitioner can stay indoors when the outdoor ultra-violet radiation is high; can use sunscreen, protective clothing, and that there is no medical documentation that a wheelchair canopy helps [redacted].

11. [redacted], PT, DPT, ATP, stated in a October 23, 2023, letter of medical necessity that "[T]he recommended equipment is medically necessary for the patient to perform their MRADLs in the home environment." See Respondent's Composite Exhibit 1, page 22.

#### **CONCLUSIONS OF LAW**

12. The Agency's Office of Fair Hearings has jurisdiction over the subject matter of this proceeding and the parties pursuant to section 409.285(2) of the Florida Statutes (2019). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

13. This hearing was held as a *de novo* proceeding pursuant to Florida Administrative Code Rule ("Fla. Admin. Code R.") 59G-1.100(17)(b).

14. The burden of proof in this proceeding is governed by Fla. Admin. Code R. 59G-1.100(17)(g), which provides as follows:

The burden of proof is on the party asserting the affirmative of an issue, except as otherwise required by statute. The burden of proof is on the Agency or plan, whichever is applicable, when the issue presented is the suspension, reduction, or termination of a previously authorized service. The burden of proof is on the recipient or enrollee when the issue presented is the denial or a limited authorization of a service. The party with the burden of proof shall establish its

position to the satisfaction of the Hearing Officer by a preponderance of the evidence.

15. Because Petitioner is requesting new DME, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to Petitioner. The standard of proof in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by “the greater weight of the evidence” (Black’s Law Dictionary at 1201, 7th Ed.).

16. States must provide Early and Periodic Screening, Diagnostic, and Treatment (“EPSDT”) services to Medicaid-eligible children under age 21 when requested under the Medicaid state plan. *See* 42 U.S.C. § 1396a(a)(43); 42 U.S.C. § 1396d(a)(4). According to 42 U.S.C. § 1396d(r)(5), EPSDT services mean, in relevant part, the following items and services:

Such other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illness and conditions discovered by the screen services, whether or not such services are covered under the state plan.

17. The Petitioner is under age 21, and therefore EPSDT applies to [REDACTED] request for services. However, a state may place medical necessity limitations on EPSDT services. *See* 42 C.F.R. §§ 440.230(a), (b), (d). Fla. Stat. § 409.905(2) limits EPSDT services with a medical necessity standard:

The [Agency] shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems and conditions, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

18. Petitioner’s requests for DME are governed by the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook (July 2010) (“DME

Handbook”), which is incorporated by reference in Fla. Admin. Code R. 59G-4.070. The DME

Handbook provides the following, in pertinent part:

**Purpose**

The purpose of the DME and Medical Supply Services Program is to promote, maintain, or restore health and minimize the effects of illness, disability, or a disabling condition.

**Durable Medical Equipment (DME)**

Durable medical equipment (DME) is defined as medically-necessary equipment that can withstand repeated use, serves a medical purpose, and is appropriate for use in the recipient’s home as determined by the Agency for Health Care Administration (AHCA).

...

**Service Criteria**

All DME, medical supplies, and orthotics and prosthetic devices must be:

- **Medically necessary**, and
- Functionally appropriate for the individual recipient, and
- Adequate for the intended medical purpose, and
- For conventional use, and
- For the exclusive use of the recipient.

DME items requested or supplied must not duplicate or perform the same function as other DME equipment or medical supplies currently in the recipient’s possession

...

**Medical Necessity**

Medicaid reimburses for services that do not duplicate another provider’s service and are determined to be medically necessary. Per 59G-1.010, F.A.C., to be medically necessary, services must meet the following conditions:

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;
- Be individualized, specific and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient’s needs;
- Be consistent with generally accepted professional medical standards as determined by the Medicaid program and not experimental or investigational;
- Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide; and
- Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient’s caretaker, or the provider.

The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.

...

DME Handbook pages 1-1, 1-2, 2-5, and 2-9.

19. The Florida Medicaid Definitions Policy (August 2017), incorporated by reference in Fla. Admin. Code R. 59G-1.010, provides definitions of commonly used terms that are applicable to all sections of Rule Division 59G, Florida Administrative Code (F.A.C.), unless specifically stated otherwise in a service-specific coverage policy or rule. The Florida Medicaid Definitions Policy defines “Medically Necessary” or “Medical Necessity” as follows:

The medical or allied care, goods, or services furnished or ordered must meet the following conditions:

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate pain
- Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient’s needs
- Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational
- Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide
- Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient’s caretaker, or the provider

The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.

(Emphasis added).

20. The Petitioner requested a pediatric wheelchair that was approved by the Respondent with accessories except for a canopy feature and a reclining back feature which were both denied

by the Respondent. *See supra* ¶¶ 3 and 4. In the NABD and in the NPAR, Respondent denied Petitioner's request for the canopy feature and the reclining back feature as not individualized, specific, consistent with the Petitioner's symptoms and not in excess of [REDACTED] needs, thus not medically necessary under the Florida Medicaid standards. *See supra* ¶¶ 3, 4, and 10. This medical necessity requirement is also referenced in the Florida Medicaid DME Handbook, and the Florida Medicaid Definitions Policy. *See supra* ¶¶ 18 and 19.

21. As Petitioner bears the burden of proof, Petitioner must show by a preponderance of the evidence that the Respondent's decision was incorrect. *See supra* ¶¶ 14 and 15. Thus, Petitioner must show that a canopy feature and reclining back feature for the Petitioner's wheelchair is indeed medically necessary, individualized, specific to [REDACTED] needs, consistent with [REDACTED] symptoms, and not in excess of the Petitioner's needs.

22. The Petitioner has not demonstrated in this matter that a canopy feature and a reclining back feature for [REDACTED] wheelchair is indeed medically necessary, individualized, specific to [REDACTED] needs, consistent with [REDACTED] symptoms, and not in excess of the Petitioner's needs. Dr. Baharieva testified at the Fair Hearing that the tilt-in-space feature of the Petitioner's wheelchair could address the medical needs of the Petitioner, and that a canopy was not medically necessary as there are other things that can be done to protect the Petitioner from daytime ultra violet radiation, such as staying indoors, sunscreen, and protective clothing. In addition and equally important is that the reclining back feature and the canopy feature do not meet the respective requirements within each of the UHC Interquals and coverage policies entered into evidence in this matter. *See supra* ¶¶ 5, 6, and 7.

23. In addition, the Petitioner's physical therapist [REDACTED] has recommended

a reclining back feature and a canopy feature for the Petitioner's wheelchair. *See supra* ¶ 11. However, while the fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service, and the Petitioner has not provided credible evidence or testimony otherwise. *See supra* ¶ 19.

24. The Petitioner has not proved by a preponderance of the evidence that the canopy feature and the reclining back feature for the Petitioner's wheelchair is individualized, specific, consistent with symptoms or diagnosis of illness or injury and is necessary to meet [redacted] mobility needs.

25. Upon consideration of the testimony provided by both parties at the Fair Hearing, documentary evidence submitted, and applicable policies, the undersigned Hearing Officer concludes that Petitioner did not prove by a preponderance of the evidence that the canopy feature and the reclining back feature for the Petitioner's wheelchair is medically necessary. Looking at all the evidence relevant to the particular needs of Petitioner, the Petitioner has not demonstrated that a canopy feature and a reclining back feature for the Petitioner wheelchair are necessary to correct or ameliorate a defect or a physical and mental illness or condition. Accordingly, the undersigned Hearing Officer finds that Petitioner has not proved by a preponderance of the evidence that Respondent's denial of the canopy feature and the reclining back feature for the Petitioner's wheelchair based on medical necessity was incorrect.

**IT IS THEREFORE ORDERED AND ADJUDGED:**

Respondent's denial of DME, namely a canopy feature and a reclining back feature for the Petitioner's wheelchair is hereby **AFFIRMED**. Petitioner's appeal based on Respondent's denial is hereby **DENIED**.

**DONE and ORDERED** this 18<sup>th</sup> day of June 2024, in Tallahassee, Leon County, Florida.

*Alan J. Leifer*  
Alan J. Leifer  
24-FH0525  
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**ALAN LEIFER, Hearing Officer**  
**Agency for Health Care Administration**  
**Office of Fair Hearings**  
**2727 Mahan Drive, Mail Stop # 11**  
**Tallahassee, FL 32308-5407**

**NOTICE OF A RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY, ALONG WITH THE FILING FEE PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

**Copies Furnished To:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
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