NHeLP
NATIONAL HEALTH LAW PROGRAM

From NHeLP's California Office
For Advocates Everywhere

Lessons from California:
Ensuring Medi-Cal Plans Provide Durable Medical Equipment

July 2015

THE ISSUE:

For most beneficiaries in California's Medicaid program (called "Medi-Cal"), durable medical equipment (DME), such as manual and power wheelchairs, is provided by a managed care plan. In 2014, NHeLP and other advocates became aware of several instances of managed care plans denying DME to beneficiaries because the DME was only needed outside the home for community access. For example, a beneficiary with diabetes was denied a power wheelchair he needed to get to regular appointments with his doctor. While plans have some discretion to limit services, they must ensure that beneficiaries have access to DME when it is medically necessary inside *or outside* of the home. Medi-Cal plans' duty to provide DME is much broader than the requirements in Medicare, which only covers DME that is intended for use inside a beneficiary's home. Nevertheless, Medi-Cal plans were applying the more restrictive Medicare standards to deny DME to Medi-Cal beneficiaries who needed equipment to fully participate and access services in the community.

STRATEGY AND ACTIONS:

When NHeLP and Disability Rights California brought this issue to the state's attention in June 2014, California initially resisted. The state threatened to change its DME rules to make them more like Medicare rules, such that coverage would only be required for DME needed in the home. In February 2015, NHeLP sent the state a memo, explaining why the state must enforce the existing Medi-Cal policy with its managed care plans. The letter noted that in Medicaid, the federal Medicaid agency (CMS) requires states to provide DME broadly when needed in a home and community based setting, rather than an institutional one. CMS's interpretation of the Medicaid DME benefit is informed by the Supreme Court's 1999 landmark case of *Olmstead v. L.C.*, which interpreted the American's with Disabilities Act to require state programs to maximize the integration of people with disabilities into the community. In April 2015 the state agreed to enforce the existing policy and issue clarifying guidance to its contracted plans. In July, 2015, the state released this new guidance that makes clear to Medi-Cal plans that they must cover DME needed for community access. This guidance may be helpful to advocates in other states where Medicaid managed care plans are using the wrong standard.

ADDITIONAL RESOURCES

- NHeLP Q & A: The Eighth Circuit's decision in Lankford v. Sherman (MO DME coverage case)
- NHeLP Q & A: Medicaid Managed Care and Disability Protections
- NHeLP Q & A: Responding to Medicaid Home and Community Based Service Cutbacks