

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 10,279
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her Medicaid coverage for the purchase of a "Peterson Insole". The issue is whether this item is covered under the regulations as an "orthotic device" or whether it is excluded as an "arch support".

FINDINGS OF FACT

The medical evidence in the case consists of the following note from the petitioner's orthopedist and the prescription order of a podiatrist to whom the orthopedist referred her:

The above named patient has had a major bilateral foot problem, which in my opinion, does not need further surgery but does need support. In this regard I have referred the patient to [podiatrist] for his evaluation and recommendations regarding orthoses.

* * *

Patient was seen in my office and I agree with major foot problems bilaterally consisting of severe pes valgo planus,¹ degenerative joint disease, bunions and hammertoes.

I agree with the assessment that the patient needs prescription orthotic devices bilateral.

Will you please fabricate rigid molded orthotic devices for the control of pronation bilaterally. Medicaid reimbursement will be necessary as patient has no funds.

The item ordered for the petitioner is called a "Peterson Insole". The Department denied the petitioner Medicaid coverage for this item based on its conclusion that it is an "arch support" rather than an orthotic "brace", as defined in the regulations (infra).

ORDER

The Department's decision is reversed.

REASONS

Medicaid Manual § M 845 includes the following provisions:

Orthotics

Braces, trusses and other devices used for the purpose of supporting a weak or deformed body member are covered. Garter belts and arch supports do not come within the definition of a brace and are not covered.

Shoes which are affixed to and are an integral part of a leg brace are covered. . .

In interpreting the above regulation, it is necessary to determine the function, or "purpose", of the device in question as it relates to its use by the petitioner. See Fair Hearing No. 6278. In this case, the podiatrist's prescription specifies the fitting of "orthotic devices for the control of pronation bilaterally." Pronation means the "turning action" of the foot (or, more commonly, the hand).²

Thus, it seems clear from the medical evidence that the insole device in question will act as a brace and support to control the turning outward of the petitioner's foot--not as

a mere "arch support", as that term is commonly understood.³

It is, therefore, concluded that the device in question meets the criteria for coverage Under 3 M 845. The Department's decision is reversed.

FOOTNOTES

¹"Pes", foot; "valgo", clubfoot in which the sole turns outward; and "planus", flatfoot. Taber's Cyclopedic Medical Dictionary, 14th Edition, p. 1081.

²Id., p. 1167.

³At the hearing, the hearing officer indicated to the parties that he would solicit from the petitioner's doctors a further description of the Peterson Insole. However, upon a more careful reading of the evidence already of record and of the regulation in question, this was deemed to be unnecessary.

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