

eyeglasses are not required for her diagnosed conditions but are needed because she has poor eyesight.

3. The medical evidence provided by the petitioner did not support her claim that she needs eyeglasses to remediate problems of balance from Parkinson's or epilepsy. It can only be found based on the medical evidence that the petitioner needs eyeglasses to remediate her vision.

4. The petitioner's request was reviewed by DCF. In an extensive written decision dated March 22, 2004, addressing all ten questions put forth in the rationale found in the "Reasons" section below, DCF denied the petitioner coverage. DCF concluded, in pertinent part, that under the federal Medicaid program, eyeglasses are an optional service for adults and are properly excluded because they do not treat progressive vision-related health conditions but only restore visual acuity. With regard to the petitioner's specific request, the denial contained the following reasons: the petitioner's health condition is not unique in that many others have sight problems, including those with her combination of medical conditions; she will not suffer serious detrimental health consequences if she does not get the eyeglasses; and that there are alternatives available to the petitioner such as requesting large print on her

medication labels or buying inexpensive magnifying "reader" glasses available over the counter. The petitioner was referred to several organizations that might be able to assist her in obtaining free or low-cost eyeglasses.

ORDER

The decision of DCF is affirmed.

REASONS

As a cost-saving measure, DCF eliminated coverage of eyeglasses (lenses and frames) over a year ago for all Medicaid beneficiaries. M670.3. DCF has a procedure for requesting exceptions to its non-coverage which requires the recipient to provide information about her situation and supporting documentation. M108. DCF must then review the information in relation to a number of criteria as set forth below:

1. Are there extenuating circumstances that are unique to the beneficiary such that there would be serious detrimental health consequences if the service or item were not provided?
2. Does the service or item fit within a category or subcategory of services offered by the Vermont Medicaid program for adults?
3. Has the service or item been identified in rule as not covered, and has new evidence about efficacy been presented or discovered?

4. Is the service or item consistent with the objective of Title XIX?
5. Is there a rational basis for excluding coverage of the service or item? The purpose of this criterion is to ensure that the department does not arbitrarily deny coverage for a service or item. The department may not deny an individual coverage of a service or item solely based on its cost.
6. Is the service or item experimental or investigational?
7. Have the medical appropriateness and efficacy of the service or item been demonstrated in the literature or by experts in the field?
8. Are there less expensive, medically appropriate alternatives not covered or not generally available?
9. Is FDA approval required, and if so, has the service or item been approved?
10. Is the service or item primarily and customarily used to serve a medical purpose, and is it generally not useful to an individual in the absence of an illness, injury, or disability?

M108

The Board has held in the past that M108 decisions are within the discretion of DCF and will not be overturned unless DCF has clearly abused its discretion by either failing to consider and address all of the pertinent medical evidence under each criterion set forth above or by reaching a result that cannot be reasonably supported by the evidence. Fair Hearing Nos. 16,223 and 17,547. In this case, DCF did

consider all of the allegations in the petitioner's application and all of the medical evidence she supplied in support of it. It also measured the medical evidence against all of the criteria listed above. It cannot be said that a reasonable person could not have reached the conclusions which DCF did given the scarce information before it.

Therefore, it must be concluded that DCF did not abuse its discretion in making this decision and must be upheld by the Board, even if the Board would have reached a different result. 3 V.S.A. § 3091(d), Fair Hearing Rule 17. If the petitioner can obtain medical evidence from her physicians that she is in danger of falling or that her medical conditions are deteriorating because of her uncorrected eyesight, she can reapply for an exception under the M108 procedure and submit that new evidence for review.

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