

# Did You Know?

## Medicaid Funding of Ramps

An elevated entrance with attached deck can be a charming feature of a home. For wheelchair users, that same elevated entrance can make the home a virtual prison. Consider Christine: Christine used a power wheelchair. She lived with her mother in a rental apartment that has seven stairs to the entrance. In the past, her grandfather would carry her while her mother would “bump” the wheelchair up and down the stairs.

Christine acquired a new power wheelchair that cannot be bumped up and down stairs. Also, her grandfather was no longer available to carry her. Christine’s mother could not carry her. Even if she could carry her or bump the wheelchair, she would not be able to carry Christine and deal with the wheelchair at the same time. Christine attended a day program/school five days a week, where she received physical and occupational therapy services.

Obviously, Christine needed a new method by which to enter and leave her home. Her medical providers submitted a Medicaid prior approval request for portable ramps for her. The ramps can be installed with minimal tools; do not require a building permit; can be expanded, reconfigured or moved; and can be set up in less than 30 minutes. They cost well under one thousand dollars.

The request was denied on the grounds that ramps are not durable medical equipment (DME), do not treat a medical condition, and are not authorized by regulations. The determination was upheld after an administrative hearing, finding, among other things, that ramps do not “treat” a condition.

After Christine lost the hearing, she was pulled from her day program, and all the services she had received in her day program had to be provided in her home. Christine’s quality of life plummeted because she had enjoyed interacting with other people at her day program. Christine became socially isolated by virtue of her inability to leave her apartment.

Our office filed litigation appealing the hearing decision. We argued that portable ramps fit within New York’s definition of DME (which closely mirrors Medicare’s definition except there is no “in-the-home” language). The definition does not require that equipment “treat” a medical condition, and while ramps may be used by the non-disabled public, ramps are no more “useful” to the non-disabled public than a wheelchair. The Medicaid agency agreed to settle and our client obtained the ramps.

Thankfully, not all administrative decisions affirmed the agency’s denial of portable ramps. In *Matter of N.S.*, FH # 3204959R (NY 5/26/00), the agency was directed to approve portable ramps if the appellant lacked a wheelchair accessible exit from his building. The decision noted that if the agency believed the apartment owner was responsible, the agency should nonetheless provide the ramps and later consider whether to use subrogation powers against the landlord. In the *Matter of K.W. on behalf*

of *C.W.*, FH # 1723061R (NY 12/12/91), the decision noted that appellant needed ramps to access the family van for transportation to medical appointments and medical transportation from private and voluntary agencies would not suitably meet appellant's needs.

In *Matter of Anonymous*, Docket # 95-103 (ME 4/29/96), a young girl on a Katie Becket waiver needed portable ramps to access her home. The decision rejected the agency's argument that the ramp did not serve a medical purpose because other people could walk on it. The decision noted that the item must be "customarily and primarily," rather than exclusively, used for a medical purpose and therefore, the ramp is reimbursable under the DME category.

Ramps are clearly medically necessary for many wheelchair users. The issue, then, comes down to whether they are DME or fit within some other Medicaid coverage category. While funding of ramps may pose a challenge to states that have an "in the home" provision in their definition of DME, ramps arguably fit within the definition of DME for many states.

Medicaid pays for wheelchairs so that individuals can move around their home, and pays for transportation to medical appointments. There seems to be no legitimate reason why Medicaid would refuse to pay for ramps so individuals can leave their home to access medical transportation. Advocates and attorneys are encouraged to review their states' definitions of DME to determine whether Medicaid should be funding portable ramps. This same analysis should also apply to permanent ramps.

Similarly, Medicaid should fund stair glides when they meet the state's definition of DME and are medically necessary to allow an individual to safely access a second floor bathroom or bedroom. See *Blue v. Bonta*, 99 Cal.App.4<sup>th</sup> 980 (Cal.Ct.App. 2002 ("a stairway chair lift alleviates a medical condition such as osteoarthritis by restoring the ability to move about the different levels of a home, where this is medically necessary for a patient"). Additionally, the AT National Resource Library has several favorable hearing decisions involving stair glides/stair lifts.

Please feel free to contact us for copies of any of the hearing decisions we have referenced. Also, if you won a hearing or court appeal/lawsuit regarding ramps or stair glides, or any other item of DME, please send us copies of the hearing decisions or court decisions/documents, so that we can share them with the AT network.

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