

STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

FILED

AUG 05 2009

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES

PETITIONER,

Vs.

APPEAL NO.09F-02909

AGENCY FOR HEALTH  
CARE ADMINISTRATION  
CIRCUIT: 07 St. Johns  
UNIT: AHCA

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, an administrative hearing was convened before the undersigned hearing officer on July 1, 2009, at 3:00 p.m., in Saint Augustine, Florida. The petitioner was present. He was represented by his mother. The respondent was represented by Agency for Health Care Administration (AHCA) program administrator, Michele Manor. Present telephonically as witnesses for the respondent were Jill Hrcz, senior human services program specialist, Katherine McGrath, program administrator, and John Loar, medical health care program analyst.

The record was held open 14 days for the submission of additional evidence which was received and entered into evidence as Respondent's Composite Exhibit 4.

**ISSUE**

At issue is non-payment by Medicaid of a medical bill in the amount of \$243.

### FINDINGS OF FACT

1. The petitioner is a four year old male Medicaid recipient with complex medical needs. His principal diagnosis is Pfeiffer Syndrome.

2. In early 2008, AHCA approved out of state medical services for the petitioner. In June 2008, he underwent a surgical procedure in the state of Texas. After the surgery, the petitioner's mother received bills from the hospital, the anesthesiologist, and the radiologist totaling over \$60,000. Subsequently, the hospital and anesthesiologist bills were paid by Medicaid. The radiologist's bill (from Radiologist Consultants of Dallas) in the amount of \$243 has not been paid.

3. The respondent explained that the provider (Radiologist Consultants of Dallas) has never billed Florida Medicaid for the medical services. The radiologist's office is not a Florida Medicaid participating provider and has declined to become a Medicaid participating provider.

### CONCLUSIONS OF LAW

Medicaid Regulations at 42 C.F.R 431.200, General Provisions, states in relevant part:

This subpart--

(a) Implements section 1902(a)(3) of the Act, **which requires that a State plan provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly;**

(b) Prescribes procedures for an opportunity for a hearing if the State agency or PAHP takes action, as stated in this subpart, to suspend, terminate, or reduce services, or an MCO or PIHP takes action under subpart F of part 438 of this chapter; and

(c) Implements sections 1919(f)(3) and 1919(e)(7)(F) of the Act by providing an appeals process for any person who--

(1) Is subject to a proposed transfer or discharge from a nursing facility; or

(2) Is adversely affected by the pre-admission screening or the

annual resident review that are required by section 1919(e)(7) of the Act.

The legal authority cited above explains that an opportunity for a fair hearing is provided when a claim for assistance has been denied or not acted upon promptly.

The Findings of Fact in the instant case show that the respondent has not denied or delayed payment of the medical bill in question because the provider has never submitted the bill to the respondent for payment and in fact, chooses not to become a Florida Medicaid provider. Therefore there is no appealable action for the undersigned to review.


### **DECISION**

The appeal is denied.

### **NOTICE OF RIGHT TO APPEAL**

This decision is final and binding on the part of the agency. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Office of Legal Services, Bldg. 2, Rm. 204, 1317 Winewood Blvd., Tallahassee, FL 32399-0700. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE AND ORDERED this 6<sup>th</sup> day of August, 2009,  
in Tallahassee, Florida.

  
Leslie Green ~~SD~~  
Hearing Officer  
Building 5, Room 255  
1317 Winewood Boulevard  
Tallahassee, FL 32399-0700  
850-488-1429

Copies Furnished To: