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

APPEAL NO. 09F-04712

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 11 Dade
UNIT: AHCA

RESPONDENT.
_____/

FINAL ORDER

Pursuant to notice, an administrative hearing was convened before the undersigned hearing officer on August 19, 2009, at 2:40 p.m., in Opa Locka, Florida. The petitioner was not present, but was represented by his mother, . Present on behalf of the petitioner were Dr. and , case manager from . The respondent was represented by Janice Williams, program operations administrator with the Agency for Health Care Administration (AHCA). Present as witnesses for the respondent, telephonically from First Health Services, Inc. were: Dr. Bruce Henry, consultant reviewer, Karen Marlowe, supervisor, and Monica Owens, account director.

ISSUE

At issue is the April 26, 2009 action by the agency denying Medicaid payment for Statewide Inpatient Psychiatric Program (SIPP) services beginning April 22, 2009. The respondent has the burden of proof.

FINDINGS OF FACT

1. The petitioner is a 17 year-old male with a history of emotional and mental illness. He was admitted to for inpatient psychiatric treatment on October 9, 2008.
2. Inpatient psychiatric services are mental health services provided in a residential setting for Medicaid beneficiaries 17 years of age or younger who suffer from mental illness or emotional disturbance. Medicaid reimbursable Inpatient psychiatric services must be medically necessary. Medical necessity is determined by a prior authorization review.
3. Health Services, Inc. is the contracted agency that determines medical necessity on behalf AHCA.
4. The petitioner was approved to receive continuous services under the Statewide Inpatient Psychiatric Program (SIPP) from his admission until April 6, 2009. After a peer-to-peer review between First Health and a physician from his stay was extended until April 21, 2009.
5. On March 19, 2009, a non-authorization (termination) notice was sent to the petitioner terminating SIPP services. The non-authorization notice reads in part:

"Certification for hospitalization beyond 04-21-2009 was found to be not necessary under the terms of the Florida Medicaid Program.

The needs of the recipient as described to us do not appear to require inpatient hospitalization, because:

Services cannot be reasonably expected to improve the recipient's condition or prevent regression so that the services will no longer be needed.

Available information indicates that the symptoms are chronic and unlikely to improve in this treatment setting.

Available information indicates that SIPP treatment is unlikely to significantly improve long standing symptoms."

6. On April 20, 2009, Citrus requested a reconsideration of the First Health's decision.

7. On April 26, 2009, First Health upheld its previous denial. The reconsideration notice reads in part:

"The needs of the recipient as described to us do not appear to require inpatient hospitalization, because:

Ambulatory care resources available in the community will meet the treatment needs of the recipient.

Available information indicates that treatment needs could be met at a lower level of treatment.

Available information did not indicate that the severity of the symptoms was such that needed services could only be provided appropriately in a SIPP facility."

8. As of the date of this hearing, the petitioner remains an inpatient in the SIPP facility.
9. The Department of Children and Families (DCF) funded the petitioner's SIPP stay from April 22, 2009 through June 30, 2009.
10. At the hearing, Dr. Henry explains that based on his review of the clinical records submitted by the treating facility, he determined that the petitioner could be treated at a less intensive level. Dr. Henry notes that the records indicate that the petitioner showed some improvement that started back on February 2009 and continued through March 2009. He did not have any aggressive or dangerous outbursts requiring special treatment orders and the medication had been discontinued,
11. The petitioner's mother disputed that her son was doing well. She denied tha[illegible]edication had been discontinued. She explained that he needed the medication, but he refused it. She noted that he is currently on medication at this point.
12. She explained that her son recently went ballistic and had to be restrained. It is her belief tha[illegible] still needs the services and should remain as an inpatient in the SIPP facility for additional treatment. She stated that she was not aware that DCF had paid for her son's stay at [illegible] up to June 30, 2009. She wants Medicaid to reimburse [illegible] for the SIPP stay from the month July 2009 to the date he is discharged.

13. Dr. Henry responded that he was not aware that the petitioner was still in the hospital and explained that he could not decide if the petitioner still needs inpatient services without reviewing the actual records of the professionals that were treating him.

14. The respondent agreed to have another determination done for SIPP services from July 2009 forward.

CONCLUSIONS OF LAW

Medical services that are covered under Medicaid are defined as being "medically necessary" and are set forth in the Florida Administrative Code Rule 59G-1.010(166)(a)(c) as follows:

> "Medically necessary" or "medical necessity" means that the medical or allied care, goods, or services furnished or ordered must:
> (a) Meet the following conditions:
> 1. Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;
> 2. Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs;
> 3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;
> 4. Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available; statewide; and
> 5. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.
> (b) "Medically necessary" or "medical necessity" for inpatient hospital services requires that those services furnished in a hospital on an inpatient basis could not, consistent with the provisions of appropriate medical care, be effectively furnished more economically on an outpatient basis or in an inpatient facility of a different type.

(c) The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.

Fla. Admin. Code 65A 1-702 defines SIPP as:

(16) Statewide Inpatient Psychiatric Program (SIPP) waiver. This program provides inpatient mental health treatment and comprehensive case management planning to enable discharge to less restrictive settings in the community for children under the age of 18 who are placed in an inpatient psychiatric program. Those who are Medically Needy and those who are Medicare recipients are excluded from this program. Services must be received from a designated provider selected by AHCA. This program provides an exception to provisions that residents of an institution for mental disease (IMD) are not eligible for Medicaid.

Agency for Health Care Administration Online Utilization Review Process states in part:

Utilization Review - Quality Assurance/Quality Improvement
Some Medicaid services are subject to utilization review by a Peer Review Organization (PRO) under contract with AHCA. The purpose of the utilization review program is to safeguard against unnecessary and inappropriate medical care rendered to Medicaid recipients. Medical services and/or records are reviewed for medical necessity, quality of care, appropriateness of place of service and length of stay (inpatient hospital).

The following Medicaid services are subject to review by a PRO:

Inpatient Hospital Services
Home Health Services
Community Mental Health Services
Home and Community Based Waiver Services for the Developmentally Disabled
The PROs currently under contract with the agency are Keystone Peer Review Organization (KePRO), First Health Services, Inc. and Delmarva Foundation.

First Health Services, Inc. performs Behavioral Health Utilization Management for the State of Florida. This includes statewide prior authorization of psychiatric inpatient services, on-site retrospective and quality of care reviews for community mental health services, behavioral health overlay services, and Statewide Inpatient Psychiatric Programs.

Florida Medicaid Summary of Services Handbook 2008 - 2009 states in Part:

Background

The statewide Inpatient Psychiatric Program (SIPP) serves Medicaid Beneficiaries 17 years of age or younger who require placement in a psychiatric residential setting due to serious mental illness or emotional disturbance...

Description

Requirements for a SIPP include provision of active mental health treatment with a child and family, extensive aftercare planning and coordination, follow-up and outcome measurement.

The objectives of the SIPP are:
Provide inpatient psychiatric services with an expected length of stay of 120 days;
Provide utilization management to endure appropriateness of admission, length of stay and quality of care;
Reduce relapses by providing aftercare services and/or linkages with appropriate community services; and
Reduce the length of stay of inpatient psychiatric service in acute care settings.

Eligibility

Medicaid beneficiaries who are potentially eligible for care in a SIPP program:

Living in Florida;
Are 17 years of age or younger
Meet specific SIPP medical necessity clinical criteria; and
Are eligible under one of the following Medicaid Eligibility categories: Temporary Assistance for Needy Families

(TANF), related, Supplemental Security Income (SSI), and SSI-related

Authorization

Children must be referred through the Department of Children and Families (DCF) District Mental Health Offices, and the Agency's behavioral health care utilization contractor manager must authorize the admission and continued stays.

First Health Services determined that based on information provided by , the petitioner no longer met the "medically necessary" criteria for SIPP and denied certification for continued hospitalization beyond April 22, 2009. The findings show the petitioner remained an inpatient in the SIPP as of the date of this hearing. The findings also show that the Department of Children and Families funded the petitioner's SIPP stay from April 22, 2009 through June 30, 2009. So the issue related to payment for SIPP stay for this time period is moot.

After considering the evidence and all of the appropriate authorities set forth in the findings above, the hearing officer finds that the respondent's decision to deny Medicaid payment for SIPP based on information submitted by the provider was correct as of April 26, 2009. However, given the new medical information provided during the hearing and to the fact that the respondent is willing to have another determination done for SIPP for the petitioner's son, the case is being remanded to the respondent for further consideration of the new medical information.

DECISION

The appeal is partially granted. The respondent is ordered to have a new determination of eligibility and medical necessity for SIPP from July 2009 forward. Medicaid payment for SIPP will not be ordered at this time, as it is premature.

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, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308-5403. 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 16th day of September 2009, in Tallahassee, Florida.

Alfredo Fernandez

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