

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

FILED

DEC 15 2009

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 09F-06000

PETITIONER,

Vs.

AGENCY FOR HEALTH  
CARE ADMINISTRATION  
CIRCUIT: 10 Highlands  
UNIT: AHCA

RESPONDENT.  
\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, an administrative hearing convened telephonically before the undersigned hearing officer on November 3, 2009, at 1:45 p.m. The petitioner's father, \_\_\_\_\_, represented himself and his daughter, \_\_\_\_\_ David Beaven, medical health care program analyst, Agency for Health Care Administration (AHCA) represented the respondent. Neretha Clark, human services program specialist, AHCA, also gave testimony.

The record was left open for additional evidence from the respondent. It was received timely, entered into evidence as the Respondent's Exhibit 5, and the record was closed.

### ISSUE

At issue is the Agency's nonpayment of medical bills for both the petitioner and her father for emergency medical care received in another state. The petitioner has the burden of proof in this matter.

### FINDINGS OF FACT

1. The petitioner and her father are Medicaid recipients in the state of Florida. On July 27, 2009, prior to traveling out of state for two weeks, the petitioner's father called AHCA to find out if they would be covered by Florida Medicaid in another state. He asserts he was told that if he had a medical emergency, the bill would be paid by Florida Medicaid.
2. On August 7, 2009, bills were incurred for \$281 and \$204 at Emergency Medical. This provider is enrolled as a Florida Medicaid provider, and therefore the bills for this date of service will be paid by Medicaid (Respondent's Exhibits 2 & 3).
3. On August 8, 2009, incurred a bill of \$420 at Emergency Physicians (Respondent's Exhibit 5). The provider is not enrolled as a Florida Medicaid provider (Respondent's Exhibit 4). The respondent cannot pay the bill for a non-enrolled Florida Medicaid provider.
4. The petitioner requested a hearing on the matter on September 16, 2009 asserting he was told that if he had a medical emergency out of state, he would be covered by Florida Medicaid. He believes he asked the question repeatedly to make sure he understood if he needed emergency care out of state, he could get it and Medicaid would pay for it. He explains that he now has a medical bill that is a financial

burden to him because he was not told that if he sought medical treatment outside of the State of Florida, the provider would have to be enrolled as a Florida Medicaid provider in order to be paid. Had he known, he would have asked Linville Physicians if they were a provider before accepting treatment. The respondent explains that it can happen that a person can be treated by a non-Medicaid provider in a Medicaid accepting facility, like an emergency room.

### **CONCLUSIONS OF LAW**

By agreement between the Agency for Health Care Administration and the Department of Children and Families, the Agency for Health Care Administration has conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to Chapter 120.80 F.S. The Florida Medicaid Program is authorized by Chapter 409, Florida Statutes, and Chapter 59G, Florida Administrative Code.

Fla. Admin. Code 59G-5.010, Provider Enrollment, states:

(1) Unless otherwise specified in Chapter 59G-4, F.A.C., all providers and billing agents are required to enroll in the Medicaid program and submit a completed Florida Medicaid Provider Enrollment Application, AHCA Form 2200-0003 (December 2004). AHCA Form 2200-0003 is available from the fiscal agent and incorporated in this rule by reference. AHCA Form 2200-0003 is the application to be completed by applicants.

(2) To enroll in the Medicaid program, all providers must meet the provider qualifications specified in federal and state laws and regulations and the program-specific provider qualifications specified in Chapter 59G-4, F.A.C.

(3) Out-of-state providers who render services to Florida Medicaid recipients may enroll in the Florida Medicaid program as out-of-state providers and receive reimbursement when one of the following requirements is met:

(a) An emergency arising from an accident or illness occurs while the recipient is out of state;

(b) The health of the recipient will be endangered if the care and services are postponed until the recipient returns to Florida;

(c) The recipient is a non-Title IV-E Florida foster or adoption-subsidy child who is living out-of-state and is covered under the Florida Medicaid program; or

(d) The medically necessary care and services are unavailable in Florida, and the out-of-state services have been prior authorized pursuant to this rule by Florida Medicaid.

(4) Providers located in Georgia or Alabama who regularly provide services to Florida recipients, meet the provider requirements in all federal and state laws and regulations, and meet the program-specific provider requirements in Chapter 59G-4, F.A.C., may enroll as Florida Medicaid providers.

(5) Out-of-state freestanding clinical laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) and licensed by the state of Florida may enroll as Florida Medicaid providers.

(6) Enrollment of a Medicaid provider applicant is effective no earlier than the date of the approval of the provider application. "Approved application" means an accurately and fully completed application with all the requirements which includes background screenings and onsite inspections resolved and completed with approval of the agency or its designee.

The above administrative rule explains that out-of-state providers who render services to Florida Medicaid recipients *may enroll* in the Florida Medicaid program as out-of-state providers and receive reimbursement when one of several requirements is met. These include an emergency arising from an accident or illness occurs while the recipient is out of state and when the health of the recipient will be endangered if the care and services are postponed until the recipient returns to Florida.

Fla. Admin. Code 59G-5.020, Provider Requirements, states in part:

(1) All Medicaid providers enrolled in the Medicaid program and billing agents who submit claims to Medicaid on behalf of an enrolled Medicaid provider must comply with the provisions of the Florida Medicaid Provider General Handbook, July 2008, which is incorporated by reference and available from the fiscal agent's Web Portal at <http://mymedcaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. A Paper copy of the handbook may be obtained by calling the Provider Contact Center at (800)289-7799 and selecting Option 7.

The above administrative rule explains that all Medicaid providers enrolled in the Medicaid program and billing agents who submit claims to Medicaid on behalf of an enrolled Medicaid provider must comply with the provisions of the Florida Medicaid Provider General Handbook, July 2008, which is incorporated by reference.

The Florida Medicaid Provider General Handbook, July 2008, states in part on page 1-2, states, "Who Can Provide Services - Only health care practitioners and health care facilities that meet the conditions of participation and eligibility requirements and are enrolled in Medicaid may provide and be reimbursed for rendering Medicaid-covered services."

The Florida Medicaid Provider General Handbook, page 2-36, cites the same language as quoted above in the Florida Administrative Code and informs that these providers follow special out-of-state enrollment procedures.

In Florida, the Agency for Health Care Administration (AHCA) develops and carries out policies related to the Medicaid program. A description of the services offered by the Florida Medicaid program can be found in the Summary of Services, 2008-2009

Section VI of the Florida Medicaid Summary of Services, page 68, Hospital Services—Outpatient states:

Outpatient hospital services are preventive, diagnostic, therapeutic or palliative care and service items provided in an outpatient setting. The services must be provided under the direction of a licensed physician or dentist. **Medicaid reimburses licensed Medicaid participating hospitals for outpatient services.**(emphasis added)

Section VI, page 77, Physicians states:  
Medicaid reimbursement includes medical supplies, nursing care, therapeutic services and drugs. Primary care services provided in an

outpatient hospital setting, hospital-owned clinic or satellite facility are not considered outpatient hospital services and are not reimbursable under the outpatient hospital program. **Medicaid reimburses for services rendered by licensed, Medicaid-participating doctors of allopathic or osteopathic medicine.** Services may be rendered in the physician's office, the patient's home, a hospital, a nursing facility or other approved place of service as necessary to treat a particular injury, illness, or disease.(emphasis added)

The petitioner and her father are Florida Medicaid recipients. On a trip out of state they needed emergency medical care. Medical care was received from one provider who was a Florida Medicaid enrolled provider; medical care was also received from a provider who was not a Florida Medicaid enrolled provider. The appeal is for Florida Medicaid to pay for the bill that was incurred from a non-enrolled provider.

. believes he was not told he had to seek out Medicaid enrolled providers in order for Florida Medicaid to pay the bill and that if he had a medical emergency out of state, he would be covered by Florida Medicaid. However the above controlling authorities require that the provider enroll and be accepted in Florida Medicaid prior to the bill being submitted for payment. The above cited passages explain that Florida Medicaid reimburses licensed, Medicaid participating hospitals and services rendered by licensed, Medicaid-participating doctors. Emergency Physicians is not an enrolled Florida Medicaid provider.

After a thorough research of the controlling authorities, the undersigned found no rule to deviate from the ones cited above. The hearing officer concludes that the Agency is unable to reimburse a non Florida Medicaid provider ( Emergency Physicians).

**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, 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 15<sup>th</sup> day of December, 2009,

in Tallahassee, Florida.

  
Margaret Poplin  
Hearing Officer  
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