

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

FILED

MAR 28 2014

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-00237

PETITIONER,

Vs.

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

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on February 4, 2014 at 1:30 p.m.

APPEARANCES

For the Petitioner:  Sister

For the Respondent: David Beaven, Fair Hearing Coordinator

STATEMENT OF ISSUE

At issue is Respondent's action in denying Petitioner's request for a CT Scan of the Head.

PRELIMINARY STATEMENT

The Agency for Healthcare Administration ("AHCA" or "Agency") is responsible for administering Florida's Medicaid Program. AHCA has contracted with MedSolutions, Inc. to handle the prior authorization process for outpatient advance diagnostic imaging

for MRI, CT, and PET scans. All outpatient elective MR, CT, and PET studies require prior authorization from MedSolutions to ensure services are medically necessary.

Witness for AHCA was Ralph Templin, D.O., Associate Medical Director with MedSolutions, Inc.

Respondent's exhibits 1-6 were entered into evidence. Petitioner's exhibit 1 was entered into evidence. The record was left open until February 26, 2014 for Petitioner to obtain additional clinical information from her treating physician regarding her medical condition. The record was further left open until March 5, 2014 for MedSolutions to review any additional medical evidence and indicate whether said information would modify MedSolution's determination. However, no further evidence was filed by the Petitioner.

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. Petitioner is a 54 year-old female with a date of birth of [REDACTED]
2. On December 31, 2013, Petitioner's provider submitted a request for a CT Scan of the Head, with and without contrast.
3. By notice dated December 31, 2013, MedSolutions denied the submitted request. The notice reads in part:

Our Medical Director has reviewed the requested procedure based on MedSolutions Head Imaging Guidelines. This request is not approved because the clinical information provided does not describe a detailed general medical history, including confirmation by a friend or family member, and a physical examination with detailed mental status exam and evaluation for depression and laboratory tests. This information is

necessary before advanced imaging can be approved in the evaluation of memory loss or dementia.

4. In light of receiving the above notice, Petitioner timely requested a hearing to challenge the denial of services.

5. Medical records from April 2013 to November 2013 show chief complaint as Chronic Back Pain, GERD, and Status-Post Pneumonia with Sepsis.

6. Physical exam dated December 31, 2013 shows chief complaint as Back and Hip Pain Going Down Legs. Diagnosis assessment shows Hiatal Hernia, Nocturnal Acid Reflux, Mental Status Changes, Chronic Back Change, and Constipation. No minimal status examination or neurological examination was conducted separately, or as part of the physical examination.

7. The sister asserts Petitioner came to live with her in December of 2012. The sister asserts Petitioner had an incident over one year ago where she was walking the dog and a man hit her in the head with his cane. The sister alleges Petitioner is losing her short-term memory. However, the sister explained Petitioner only told the ordering physician about this condition two weeks ago. The sister explained there is a family history of Alzheimer's disease.

8. Dr. Ralph Templin ("Respondent medical expert") explained the medical records submitted by the provider were reviewed. The ordering code submitted by the ordering practitioner indicated memory loss or personality syndrome abnormality. However, the records submitted did not include a neuropsychological, psychological or neurological physical exam or any history information. No information or examination was presented to support a diagnosis of possible dementia. As such, the request was

denied based on a lack of a thorough examination addressing the memory loss and potential dementia, pursuant to MedSolutions Guidelines for Imaging and Dementia.

9. Respondent's medical expert explained MedSolutions contacted Petitioner's ordering physician for purposes of trying to obtain additional clinical information needed. However, the medical expert asserts Petitioner's ordering physician does not do peer-to-peer meetings. He explained sometimes additional information may be submitted by the primary care physician, without the need for a specialist, like a mini-mental status exam, and this is why MedSolutions will attempt a peer-to-peer in hopes of obtaining additional information needed. He further explained many things can mimic dementia, which is why a thorough examination is needed before imaging can be ordered. A thorough examination would better indicate whether a MRI or CT Scan is needed.

10. Respondent's medical expert explained only recently was a letter received from Petitioner indicating what she believes to be possible memory loss.

11. The sister intends on contacting the treating physician so that he may submit additional information regarding her sister's condition. If he is not willing to submit additional information, she will request her sister be referred to a specialist regarding her condition.

CONCLUSIONS OF LAW

12. The Department of Children and Families Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to Fla. Stat. § 120.80. The Office of Appeal Hearings provided the parties with adequate notice of the administrative hearing.

13. Florida Medicaid State Plan is authorized by Chapter 409, Florida Statutes, and Rule 59G, Florida Administrative Code. The program is administered by AHCA.

14. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

15. The burden of proof was assigned to the Petitioner pursuant to Fla. Admin. Code R. 65-2060(1).

16. The standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence, as provided by Fla. Admin. Code R. 65-2.060(1).

17. Florida Administrative Code, Rule 59G-1.010(166), defines medical necessity, 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.

(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.

18. Florida Statutes § 409.912 provides that AHCA shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. In addition, the statute provides AHCA may mandate prior authorization. AHCA has accomplished this by way of contracting with MedSolutions to perform prior authorization for outpatient advance diagnostic imaging.

19. The Florida Medicaid Practitioner Services Coverage and Limitations Handbook- December 2012 ("Medicaid Handbook") has been incorporated by reference into Florida Administrative Code Rule 59G-4.205.

20. Page 2-98 of the Medicaid Handbook states in part:

Prior Authorization of Outpatient Non-emergent Diagnostic Imaging

Prior authorization (PA) is the approval process required prior to providing certain Medicaid services to recipients. Medicaid will not reimburse for the designated outpatient, non-emergent diagnostic imaging services without prior authorization. Florida Medicaid contracts with QIO entities to safeguard against unnecessary utilization and to assure the quality of care provided to Medicaid recipients. All diagnostic imaging providers are required to adhere to the established requirements and submit the necessary information to Florida Medicaid or the Medicaid QIO currently in place for this process.

Note: The current QIO PA process is available on the Web at www.medsolutions.com/implementation/AHCA.

21. The Clinical Guidelines relied upon by MedSolutions for approval of Head Imaging for a diagnosis of Dementia states:

- HD-13.1Diagnosis: The diagnosis of dementia is established clinically. Neuropsychological evaluation is necessary, whether by mini mental status examination (MMSE or Folstein exam), by formal neuropsychological testing, or by less formal mental evaluation often performed by neurologists, psychiatrists, or gerontologists.
 - Recent full neurological examination as part of the physical examination is also appropriate initially.

- A raw MMSE (Folstein) cut-off score of <25 is a specific but insensitive measure of dementia (65% sensitivity), and scores should be adjusted for the patient's background rather than looked at rigidly.
- A score ≥ 2 points below expected is significant (e.g. a score of 28 is very abnormal for a former college professor).
- Advanced neuroimaging is used chiefly to exclude an unexpected brain tumor or subdural hematoma.
- Either noncontrast head CT (CPT 70450) or noncontrast brain MRI (CPT 70551) is generally sufficient.
- MRI has the advantage of superior evaluation for multi-infarct states and subcortical white matter diseases and is strongly preferable when those diagnoses are being considered.
- Contrast is indicated in atypical cases (including rapid progression, focal exam findings)

22. AHCA has contracted with MedSolutions to perform prior authorization for outpatient non-emergent diagnostic imaging, in accordance with Florida Statutes § 409.912. The evidence shows clinical information submitted by the provider was insufficient to obtain prior approval for a CT Scan by MedSolutions.

23. The undersigned concludes MedSolutions' action is consistent with the cited authority, indicating Medicaid services must "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." The evidence shows MedSolutions attempted to contact the provider in an attempt to obtain the additional information. However, no further information was submitted by the provider. Also, the undersigned left the record open for submission of additional documentation from the provider; still no further information was filed.

24. After careful review of the evidence submitted and the relevant laws set forth above, the undersigned finds the Petitioner's burden was not met.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is hereby denied and the Agency's action is affirmed.

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 petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 28th day of March, 2014,

in Tallahassee, Florida.



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