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

[redacted]

APPEAL NO. 14F-08341

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 20 Lee
UNIT: AHCA

RESPONDENT.
_____/

FINAL ORDER

Pursuant to notice, the undersigned hearing officer convened an administrative hearing telephonically in the above-referenced matter on November 4, 2014, at 3:00 p.m.

APPEARANCES

For the Petitioner: [redacted]
Petitioner

For the Respondent: Karen Brooks
Program Operations Administrator
Agency for Health Care Administration

STATEMENT OF ISSUE

The issue is the denial by the petitioner's health maintenance organization of the petitioner's request for reimbursement of travel related expenses.

PRELIMINARY STATEMENT

[redacted] ("petitioner"), the petitioner, appeared on his own behalf. No one appeared as a witness for the petitioner.

Karen Brooks, Program Operations Administrator with the Agency for Health Care Administration, appeared on behalf of the Agency for Health Care Administration. The Agency for Health Care Administration may sometimes hereinafter be referred to as "AHCA" or the "Agency". The following individuals from Staywell appeared as witnesses on behalf of the Agency: Mae James, Team Lead; Paula DeCorte, Regional Supervisor, Case Management Team; Alexis Figueroa, Clinical Social Worker; Bruce Himelstein, M.D., State Medical Director; and Eilie Cruz, Regulatory Compliance Specialist.

During the hearing, the Agency introduced Exhibits "1" through "17", inclusive, all of which were accepted into evidence and marked accordingly. The petitioner did not introduce any exhibits. The hearing record in this matter was left open until the close of business on November 21, 2014 in order to provide the petitioner with an opportunity to submit an itemized statement of the expenses for which he is seeking reimbursement along with copies of any receipts substantiating the expenses, as well as any written objections to the evidence submitted by the Agency at the hearing and any additional information he wished to submit refuting the testimony of the Agency's witnesses. The hearing record was left open further until the close of business on November 28, 2014 to allow the Agency an opportunity to respond to any information submitted by the petitioner after the hearing. On November 17, 2014, the petitioner sent a letter stating he needed until December 8, 2014 to provide the information. This letter was accepted

into evidence and marked as petitioner's Exhibit "1". The petitioner did not submit any additional information afterwards.

FINDINGS OF FACT

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

1. The petitioner is an adult male.

2. The petitioner was eligible to receive Medicaid at all times relevant to this proceeding.

3. Petitioner was enrolled with Staywell from February 1, 2013 to August 31, 2014. Staywell is a Health Maintenance Organization ("HMO") which is contracted by the Agency for Health Care Administration, the respondent, to provide services to certain Medicaid eligible persons in the State of Florida.

4. The petitioner resides in North Fort Myers, Florida. North Fort Myers is in Lee County.

5. The petitioner traveled from his home in Lee County to Broward County to meet with specialists on June 16 through June 19, 2014, July 1 through July 3, 2014, and August 3 through August 8, 2014.

6. On his trip to Broward County from June 16 through June 19, 2014, the petitioner met with his primary care physician, a cardiologist, oncologist/hematologist, and neurologist.

7. On his trip to Broward County from July 1 through July 3, 2014, the petitioner met with a licensed nurse practitioner at his oncologist/hematologist's office, his cardiologist, a neurologist, and an endocrinologist.

8. On his trip to Broward County from August 3 through August 8, 2014, the petitioner met with his endocrinologist, oncologist/hematologist, and cardiologist.

9. Petitioner's endocrinologist was not a part of the Staywell provider network at the time of the petitioner's visits with the doctor.

10. Petitioner's cardiologist was a member of the Staywell provider network at the time the petitioner met with the doctor in June 2014. He was no longer a member of the Staywell provider network at the time the petitioner met with the doctor in July 2014 and August 2014.

11. Petitioner contacted Staywell on June 25, 2014 to inquire about enhanced benefits for food and lodging. The Staywell representative informed the petitioner that enhanced benefit services require prior authorization.

12. Petitioner did not obtain prior authorization for enhanced benefit services to cover the cost of his travel expenses to Broward County on June 16 through 19, 2014, July 1 through July 3, 2014, and August 3 through August 8, 2014.

13. Staywell sent the petitioner information regarding his member benefits on May 2, 2014 and May 29, 2014. Although the May 2, 2014 kit did not include information about expanded benefits, the May 29, 2014 kit did include that information.

14. The Staywell provider network includes multiple specialists in the areas of endocrinology, hematology, hematology/oncology, and neurology in Lee County, where the petitioner resides.

15. On July 21, 2014, the petitioner filed a grievance with Staywell requesting reimbursement in the amount of $18 for costs associated with the return trip after an appointment with his doctor on June 30, 2014.

16. The petitioner did not schedule his return trip from the doctor's office on June 30, 2014 with Staywell's transportation provider in advance.

CONCLUSIONS OF LAW

17. By agreement between the Agency for Health Care Administration and the Department of Children and Families, AHCA has conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to § 120.80, Fla. Stat.

18. This is a final order pursuant to § 120.569 and § 120.57, Fla. Stat.

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

20. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof is assigned to the petitioner.

21. The standard of proof in an administrative hearing is by a preponderance of the evidence. (See Fla. Admin. Code R. 65-2060(1).) The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed.). In the instant case, this means the respondent must show, by the greater weight of the evidence, that its action in this matter is correct.

22. The Florida Medicaid program is authorized by Fla. Stat. ch 409 and Fla. Admin. Code R. 59G. The Medicaid program is administered by the respondent.

23. Section 409.912, Fla. Stat. states, in relevant parts:

> **Cost-effective purchasing of health care.**—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care ...
>
> (3) The agency may contract with health maintenance organizations certified pursuant to part I of chapter 641 for the provision of services to recipients. This subsection expires October 1, 2014.

24. The Florida Medicaid Provider General Handbook – July 2012 is incorporated by reference in the Medicaid Services Rules found in Fla. Admin. Code Chapter 59G-4. In accordance with the above Statute, the Handbook states on page 1-27:

> Medicaid contracts with Health Maintenance Organizations (HMOs) to provide prepaid, comprehensive, cost-effective medical services to enrolled Medicaid recipients.
>
> Medicaid pays each HMO a monthly capitation fee for managing and providing care to each enrolled recipient. In accordance with certain contractual agreements with Medicaid, the HMO provides a specified, comprehensive package of medical services for this monthly Medicaid fee.
>
> Medicaid HMOs are also required to provide quality and benefit enhancements and can provide other expanded benefits as described in this section.

25. Page 1-30 of the Florida Medicaid Provider General Handbook states: "An HMO's services cannot be more restrictive than those provided under Medicaid fee-for-service."

26. Page 1-30 of the Florida Medicaid Provider General Handbook, Optional Services, explains: "Other services that plans may provide include dental services, transportation, nursing facility and home and community-based services. Plans may also provide services under their contracts that Medicaid does not cover, such as over-the-counter drugs."

27. Also listed on Page 1-30 of the Florida Medicaid Provider General Handbook are the Exemptions from HMO Authorization. Transportation services are not one of the exemptions listed in this category.

28. Fla. Admin. Code R. 59G-1.010(166) explains that medical or allied care, goods, or services furnished or ordered must meet the definition of medically necessary or medical necessity, and defines medical necessity as:

> (a) "Medical necessary" or "medical necessity" means that medical or allied care, goods or services furnished or ordered must 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 patent's needs;
> 3. Be consistent with generally accepted professional medical standards as defined by the Medicaid program and not be experimental or investigational;
> 4. Be reflective of the level of service that can safely be furnished, 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.

29. The Statewide Medicaid Managed Care program consists of two components: the Managed Medical Assistance program and the Long-term Care program. The Managed Medical Assistance plans are required to provide transportation services, including emergency transportation to their enrollees who have no other means of transportation available to any covered service.

30. The Agency for Health Care Administration Contract setting forth the transportation service requirements in the Managed Medical Assistance program ("Contract"), in the section entitled "Contract Language" contained in Attachment II, Section V.D.3.f., Managing Mixed Services, states as follows:

> Managed Care Plans shall provide non-emergency transportation (NET) services to enrollees with both MMA benefits and LTC benefits as follows:
>
> 1. MMA Managed Care Plans shall provide NET to all MMA benefits.
> 2. LTC Managed Care Plans shall provide NET to all LTC benefits.
> 3. Comprehensive LTC Managed Care Plans shall provide NET to enrollees with both MMA and LTC benefits, and provide NET to [sic] all MMA benefits for enrollees with only MMA benefits.

31. Similarly, the Contract, in Attachment II, Exhibit II-A, Section V.A.28, Transportation Services, explains as follows:

> The Managed Care Plan shall provide transportation services, including emergency transportation, for its enrollees who have no other means of transportation available to any covered service, including enhanced benefits.

32. In the section entitled Recipient/Enrollee Responsibilities, the Contract explains:

> For any new transportation service requests, enrollees must request NET services from the MMA plan at least 24 hours in advance of the desired trip.

33. The Staywell Extra Benefits and Special Programs documentation, on Page 7, explains the following with regard to food and lodging for care that requires travel and an overnight stay "...Several things to remember with this benefit: We must approve this before you travel."

34. In the present case, the petitioner is requesting reimbursement for travel expenses for which he did not receive prior authorization. Since these services were not prior authorized, the petitioner is not entitled to reimbursement for his out-of-pocket expenses. With regard to petitioner's request for reimbursement of the costs associated with his return trip after a doctor's appointment on June 30, 2014, the petitioner did not arrange for transportation prior to the time it was needed. Since such transportation

must be arranged in advance, Staywell is not required to reimburse the petitioner for the costs associated with his return trip home.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, 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 petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 20th day of January, 2015, in Tallahassee, Florida.

Peter J. Tsamis
Hearing Officer
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Copies Furnished To: [redacted] Petitioner
Dietra Cole, Area 8, AHCA Field Office Manager