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

FILED
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OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

[redacted]

APPEAL NO. 14F-08944

PETITIONER,

Vs.

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

RESPONDENT.
_____/

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 16, 2014 at 11:30 a.m.

APPEARANCES

For the Petitioner: [redacted] Petitioner's case manager

For the Respondent: Diana Chirino, Senior Program Specialist
Agency for Health Care Administration (AHCA)

STATEMENT OF ISSUE

At issue is whether the Respondent's denial of the Petitioner's request for a skin removal surgical procedure was correct.

PRELIMINARY STATEMENT

The Petitioner did not submit any documents as evidence for the hearing.

Appearing as witnesses for the Respondent were Lissette Lopez, Grievance and Appeals Supervisor, and Dr. Barbara Cowley, Chief Medical Officer from Clear Health

Alliance, which is the Petitioner's managed health care organization. Respondent's composite Exhibit 1 was entered into evidence, consisting of documents relating to the Petitioner's service request.

Also present for the hearing was a Spanish language interpreter, Boris Rodriguez, from Propio Language Services.

FINDINGS OF FACT

1. The Petitioner is an adult Medicaid recipient who was enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA) plan effective July 1, 2014. He receives services under the plan from Clear Health Alliance.

2. The Petitioner's treating physician (hereafter referred to as "the provider"), requested prior authorization on September 5, 2014 from Clear Health Alliance to perform a skin removal surgical procedure on the Petitioner. The request from the provider stated "the fee for this unlisted service would be $6,000.00."

3. The Petitioner suffers from lipodystrophy of the upper back which has caused him to develop a mass in his back. He also suffers from pain in his neck and has one breast larger than the other due to this condition.

4. On September 12, 2014, Clear Health Alliance informed the Petitioner that the requested procedure had been denied because it was not covered by Medicaid. The Petitioner filed an internal appeal with Clear Health which was denied on October 9, 2014. The Petitioner subsequently filed a request for a fair hearing.

5. In addition to describing his medical conditions and need for the surgical procedure, the Petitioner testified he believes the procedure should be covered by Clear Health since no one from Clear Health examined him prior to denying his request.

6. The Respondent's witness, Dr. Cowley, testified that the denial of the Petitioner's request for the surgical procedure was appropriate because the Petitioner's physician must use the proper procedure codes contained in the Medicaid fee schedules and Medicaid will not cover an "unlisted procedure." Dr. Cowley also stated there are applicable procedure codes for the service requested by the Petitioner's physician, and these codes should have been utilized in the service request.

7. Services under the Medicaid State Plan in Florida are provided in accordance with the Respondent's Florida Medicaid Provider General Handbook ("Medicaid Handbook"), effective July, 2012. Physician services are also addressed in the Practitioner Services Coverage and Limitations Handbook ("Practitioner Handbook"), effective April, 2014.

CONCLUSIONS OF LAW

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

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

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

11. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof was assigned to the Petitioner since the Respondent had never previously approved the service request. The standard of proof in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed.).

12. The Florida Medicaid Program is authorized by Chapter 409, Fla. Stat. and Chapter 59G, Fla. Admin. Code. The Medicaid Program is administered by the Respondent. The Practitioner Handbook referred to above is incorporated by reference in Fla. Admin. Code R. 59G-4.205.

13. The Practitioner Handbook, on page 2-110, states the following: "[u]nlisted (non-priced) procedure codes may be billed only when there is no available procedure code. If the provider bills an unlisted procedure code when there is an appropriate procedure code, the claim will be denied."

14. In defining the term "Covered Services", the Practitioner Handbook on page 2-3 states "[o]nly those services designated in this chapter and listed in the individual Practitioner Services Fee Schedules are reimbursed by Medicaid."

15. Based upon the information submitted by the Petitioner's provider, Clear Health Alliance completed a prior authorization review and denied the requested surgical service.

16. The issue in this case relates to proper billing codes and procedures, not whether the requested service is medically necessary. The Respondent's witness did not address the medical necessity aspect of the requested procedure. The Petitioner is undoubtedly suffering from his medical condition. However, as stated in the applicable rules and Handbook provisions cited above, a physician provider must utilize the proper billing codes identified by Medicaid. In this case, the Petitioner's physician requested authorization for an unlisted procedure, and this request was properly denied.

17. After considering all the documentary evidence and witness testimony presented, the undersigned concludes the Petitioner has not met the burden of proof in demonstrating that the Respondent incorrectly denied his request for service. The Petitioner should resubmit his pre-authorization request using the correct Medicaid procedure codes.

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 agency has no funds to assist in this review, and any financial obligations incurred will be the Petitioner's responsibility.

DONE and ORDERED this 9th day of February, 2015,

in Tallahassee, Florida.

Rafael Centurion
Hearing Officer
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Copies Furnished To: [redacted] Petitioner
Rhea Gray, AHCA Area 11, Field Office Manager