

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

FILED

AUG 05 2014

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DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 14F-05021

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 15 Palm Beach
UNIT: AHCA

RESPONDENT.

FINAL ORDER

Pursuant to notice, a telephonic administrative hearing in the above-referenced matter convened on July 25, 2014 at 8:36 a.m.

APPEARANCES

For the Petitioner:



For the Respondent:

Ken Hamblin, Fair Hearing Coordinator

ISSUE

At issue is whether respondent's denial of emergency coverage for an undocumented non-citizen was correct. The denial was in regard to payment of three days of hospital services between January 9, 2014 and January 11, 2014.

PRELIMINARY STATEMENT

Petitioner does not have a first name and uses NNG (No Name Given) to indicate such. At the time of the hearing, petitioner submitted no exhibits into evidence.

Mr. Hamblin appeared as both as a representative and witness for the respondent. Present from eQ Health Solutions (eQ) was Dr. Elyn Theophilopoulos, M.D. Present as observers from the Agency for Health Care Administration were Sharon Garrison, Registered Nurse Specialist; Andrea Ferguson, Program Administrator, and Carol King, Registered Nurse Specialist. Respondent's Exhibit "1" was entered into evidence.

The record was left open through July 28, 2014 for the petitioner to submit information concerning his citizenship status and a Notice of Case Action received from the Department of Children and Families (DCF). This information was timely received and entered as Petitioner's Exhibits "1" and "2".

The record was also left open through July 28, 2014 for respondent to submit additional information about petitioner's Medicaid status. The information was timely received and marked as respondent's Exhibit "2".

FINDINGS OF FACT

1. In January 2014 petitioner experienced shortness of breath; chest pain; and dizziness. A physician ordered him to a local hospital.
2. Petitioner was admitted into JFK Medical Center on January 9, 2014 and remained in the facility through January 11, 2014.
3. A cardiac catheterization was performed during the hospitalization.
4. On April 11, 2014, a request to bill Medicaid for emergency services was submitted to eQ. Respondent contracts with eQ to review such requests and issue a final determination. The determination in this instant case was based on a review of submitted information.

5. Based on provided information, physician reviewers at eQ believed the petitioner to be an undocumented non-citizen. As such, a review was conducted using guidelines for Emergency Medicaid for Aliens. This program reimburses a provider for emergency services administered to aliens who meet all Medicaid eligibility requirements except for citizenship or alien status.

6. On April 14, 2014 a Notice of Denial – Emergency Coverage: Undocumented Non-Citizen was sent to the petitioner; his physician; and JFK Medical Center. The notice stated, in part:

The Agency for Healthcare Administration reimburses inpatient medical and surgical services for undocumented non-citizens who are eligible for Medicaid coverage under the Balanced Budget Act.

We received a request for review of the inpatient services noted above to determine if the inpatient days were due to an emergency and to determine the number of days of Medicaid coverage.

PR Principal Reason – Denial:

Review of the clinical information submitted does not support the emergent nature of the requested days of service.

Clinical Rational for Decision: This is a 61 year old man who was admitted on 1/9/14. The dates of service 1/9/14 thru 1/11/14 are not approved as there was no emergent care provided.

7. The denial stated if there is disagreement with the determination, reconsideration could be requested. Another eQ physician reviewer would re-review the case and, if submitted, consider any additional information.

8. A timely request for reconsideration was received.

9. On May 6, 2014 eQ issued a Notice of Reconsideration Determination – Denial Upheld. The notice stated: "We are required to restudy a case if asked to do so. We

received a request to do so and another doctor looked at your case again. The result was to UPHOLD the first finding.”

10. On May 15, 2014 the petitioner timely requested a Medicaid Fair Hearing.

11. Petitioner has been a permanent resident of the United States since November

██████████ His permanent resident card expires on ██████████ (Petitioner’s Exhibit “2”). This information was not known by eQ physician reviewers at the time of their reviews.

12. DCF determines eligibility for Medicaid programs administered by the respondent.

13. On April 4, 2014 DCF issued to the respondent a Notice of Case Action (Petitioner’s Exhibit 2). The notice states the petitioner met his Medically Needy share of cost and eligible for Medicaid for the period January 9, 2014 through January 31, 2014. Petitioner states his share of cost is \$925.00. The notice also directs the petitioner to contact all billing providers and “give them your Medicaid Identification Number.”

14. When completing their reviews, Physician reviewers at eQ were not aware of the above Notice of Case Action.

15. Dr. Theophilopoulos asserts this matter is moot as the review was based on the requirements of emergency Medicaid for an undocumented non-citizen. As such, the wrong standard was utilized to review the payment request for emergency services. If the petitioner is a permanent resident, the provider should submit a new request stating such. A review would then be completed based on medical necessity.

16. Post hearing, respondent submitted a screen print of a document showing the petitioner's benefit plan as "Alien-Emergency Medicaid for Aliens. The effective date is listed as January 1, 2014 through January 31, 2014.

17. Post hearing respondent also provided documentation that Medicaid paid several claims for the service date of January 9, 2014 (Respondent's Exhibit "2"). These claims were submitted by Medicaid providers in an individual or group practice and are not from JFK Medical Center. Numerous other claims have been submitted for dates of service between January 9, 2014 and January 11, 2014. The claims were denied. Neither the submitting medical provider nor denial reasons are known.

18. With the above post hearing submission Mr. Hamblin wrote, in part:

██████████ advised at hearing that he is a legal resident alien in the United States. If this is so, then DCF made an error in granting him Emergency Medicaid for Aliens. This type of Medicaid is solely for undocumented aliens with true medical emergencies. Since Mr. ██████████ maintains that he has always been a legal resident of the United States then he would have been considered for regular Medicaid.

Because ██████████ was apparently given this type of Medicaid in error, then the Agency would argue that this hearing moot.

The Agency advises ██████████ to go back to DCF to seek retroactive eligibility for regular Medicaid.

19. Petitioner has received medical bills in regard to the treatment dates at issue.

20. Respondent asserts petitioner is not responsible for any unpaid charges.

CONCLUSIONS OF LAW

21. 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 § 120.80, Fla. Stat.

22. This is a final order pursuant to Fla. Stat. § 120.569 and § 120.57.
23. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.
24. In accordance with Fla. Admin. Code R. 65-2.060(1), the burden of proof was assigned to the petitioner.
25. The standard of proof in an administrative hearing is by a preponderance of the evidence (See Fla. Admin. Code R. 65-2.060(1).) The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed.).
26. The Florida Medicaid program is authorized by Fla. Stat. Chapter 409 and Fla. Admin. Code Chapter 59G. The Medicaid program is administered by the respondent.
27. The issue before the undersigned is not the denial of a service to be rendered at a future date. At issue are services which were provided by JFK Medical Center between January 9, 2014 and January 11, 2014.
28. It is noted the petitioner was released from the hospital prior to the issuance of a denial from eQ. Petitioner received the service.
29. The petitioner has no substantial interest in whether Medicaid pays for a service that been received.
30. No legal authority can be found showing the undersigned has jurisdiction regarding payment issues. As such, the appeal must be dismissed.
31. It is not clear whether DCF correctly recognized the petitioner's alien status and generated the appropriate Medicaid. The petitioner is afforded the opportunity to discuss this matter with DCF (Customer Call Center: 866-762-2237).

32. Petitioner can also further discuss the matter with JFK Medical Center. If desired, petitioner can provide JFK with a copy of the Notice of Case Action dated April 4, 2014 along with his Medicaid identification number. If warranted, a resubmission to eQ could be submitted based on petitioner's appropriate alien status.

DECISION

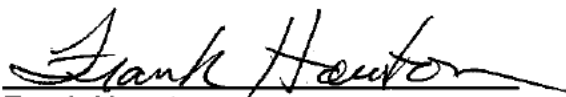
Based upon the foregoing Findings of Fact and Conclusions of Law, due to the lack of jurisdiction in this matter, the petitioner's appeal is DISMISSED.

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 5th day of August, 2014,

in Tallahassee, Florida.



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Ken Hamblin 9, AHCA Management Analyst