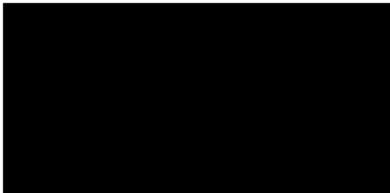


FILED

APR 02 2014

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

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DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-00886

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION

CIRCUIT: 11 Dade


UNIT: AHCA

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on March 11, 2014, at 1:15 p.m., with all parties participating telephonically.

APPEARANCES

For the Petitioner:  the petitioner's mother.

For the Respondent: Mara Perez, senior program specialist, Agency For Health Care Administration (AHCA).

STATEMENT OF ISSUE

At issue is the Agency's action, through its agent, Coventry to deny the petitioner's request for a cranial remolding orthotic, which is a which is a durable medical equipment (DME) devise, based on not meeting the medically necessary criteria. The petitioner has the burden of proof.

PRELIMINARY STATEMENT

Present as witnesses for the respondent were Dr. Beverly Nelson Curtis, medical director and Geraldine Savoia, medical control manager, both from Coventry. Coventry is a Medicaid HMO.

Also present as a witness was Jim Singleton, medical health care program analyst, AHCA. He is located in Tallahassee, Florida.

Present as an interpreter was Nicholas (Number 687). He would not provide his last name. Present as an observer was Brandy Ricklefs, hearing officer with the Office of Appeal Hearings.

Also at issue, though resolved prior to this hearing, was the petitioner's request to be changed to another Medicaid HMO. The petitioner did meet good cause, and as March 1, 2014, the petitioner was changed from Coventry and enrolled in Humana HMO.

FINDINGS OF FACT

1. The petitioner was born on [REDACTED] He is a Florida Medicaid recipient. He has some deformation of his cranial area. Based on this, the petitioner's physician recommended a cranial remolding orthotic to remedy the petitioner's condition. This request was forwarded to Coventry, the petitioner's Medicaid HMO, for a Prior Service Authorization.

2. The Agency through Coventry denied the petitioner's request for the cranial remolding orthotic on November 19, 2013 and sent the petitioner a Notice advising of the decision. This Notice states:

The requested service is not Medically Necessary because based on review of the submitted clinical information, as member cephalic index is >83, member cephalic index is 88.8. Therefore, per Medicaid DME and Medical Supply service Coverage and Limitation Handbook. Medically necessary eligibility requirements not met.

3. The petitioner submitted into evidence, Petitioner Exhibit 1, which contains a copy of a letter from Cranial Technologies advising the petitioner to appeal the Agency decision; a copy of anthropometric measurements for the petitioner; and a copy of cranial pictures of the petitioner. The respondent representative indicated that the above was reviewed by Coventry.

4. The respondent representative indicated that the Agency decision for this case is based on the provisions of the Florida Medicaid Durable Medical Equipment and Medical Supplies services Coverage and Limitation Handbook. She noted, along with the respondent's physician witness, that the "Handbook" indicates the cranial index of symmetry (CIS) would have to be <83 and that six months worth of documentation regarding daily counter positioning therapy would have to be provided. The respondent witness indicated that the petitioner's CIS is 88.8 and that only three months of documentation regarding daily counter positioning therapy was provided for the petitioner. The respondent representative also indicated that 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. Thus, based on the above, the respondent reiterated that the petitioner's request for the cranial remolding orthotic was correctly denied due to the medically necessary eligibility requirements were not met for the this DME.

CONCLUSIONS OF LAW

5. 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 § 409.285. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat.

6. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code § 65-2.056.

7. In accordance with Fla. Admin. Code § 65-2.060 (1), the burden of proof was assigned to the petitioner.

8. Fla. Admin. Code 59G-1.010 states in part:

(166) "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;
5. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

(b) "Medically necessary" or "medical necessity" for inpatient hospital services requires that those services furnished in a hospital on an inpatient basis could not, consistent with the provisions of appropriate medical care, be effectively furnished more economically on an outpatient basis or in an inpatient facility of a different type.

(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...

9. The Florida Medicaid Durable Medical Equipment and Medical Supplies services Coverage and Limitation Handbook page 2-48 (2010) provides for eligibility and reimbursement requirements for Custom Cranial Remolding Orthosis and states:

Description. A custom cranial remolding orthosis is a non-invasive device used to correct the symmetry of an infant's skull.

Custom cranial remolding orthoses require prior authorization (PA). PA requests must be submitted using the appropriate DME procedure code, to ensure proper routing for physician review.

Custom cranial remolding orthotic devices are covered by Medicaid when it is determined medically necessary to correct a moderate to severe craniofacial deformity. Supporting documentation, at a minimum, *must* include:

A prescription from an orthopedic or craniofacial surgeon; and Clinical evidence, including measurements, indicating the infant's current cranial index of symmetry (CIS) is <83; and Current color photographs of the infant's head, taken from the following views:

Superior;

Frontal;

Posterior;

Right and left lateral; and

A statement from a treating orthopedic or craniofacial surgeon, stating that treatment using a cranial remolding orthosis is recommended due to poor improvement in the infant's CIS, after a documented six (6) months trial period of active counter positioning has been completed; and Six (6) month's worth of documentation regarding daily counter positioning therapy.

10. As shown in the Findings of Fact, the Agency through Coventry denied the petitioner's request for the cranial remolding orthotic on November 19, 2013, based on not meeting the medical necessity requirements.

11. The petitioner argued that the petitioner is in need of receiving the "treatment" for his cranial problems. She argued that she had previously purchased a helmet for the petitioner in which she indicated the use of the helmet has improved his cranial condition. She argued that she is no longer employed and cannot afford any more treatment for the petitioner. She argued that the Agency should take an "overall" look at the petitioner's cranial problem and approve the treatment.

12. The respondent representative argued that the Agency, through Coventry, has made the correct medically necessary determination to deny the petitioner's request for the cranial remolding orthotic. The respondent witness argued that the petitioner's current cranial index of symmetry measurement of 88.8, does not meet the cranial measurement index of symmetry criteria of <83, as per the above noted Florida Medicaid Durable Medical Equipment and Medical Supplies services Coverage and Limitation Handbook. Additionally, the respondent witness argued that the petitioner did not meet the requirements of six month's worth of documentation regarding daily counter positioning therapy being met according to the above noted Florida Medicaid Durable Medical Equipment and Medical Supplies services Coverage and Limitation Handbook in order to be eligible to receive the requested cranial remolding orthotic DME item.

13. For the case at hand, the hearing officer agrees with the respondent's above noted arguments, especially the argument concerning the cranial measurement index of symmetry criteria which does not meet the medically necessary criteria for the DME item. The hearing officer concludes that the Agency action to deny the petitioner's request to receive the cranial remolding orthotic DME item as the petitioner does not meet the medically necessary criteria. The petitioner has not met his burden of proof.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is DENIED and the Agency action 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 2nd day of April, 2014,

in Tallahassee, Florida.

Robert Akel

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