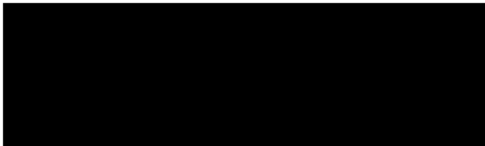


STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

**FILED**  
MAY 29 2014  
OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-00955

PETITIONER,

Vs.

AGENCY FOR HEALTH  
CARE ADMINISTRATION  
CIRCUIT: 01 Walton  
UNIT: AHCA

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned hearing officer convened a telephonic administrative hearing in the above-referenced matter on April 16, 2014 at 3:07 p.m.

The proceeding was originally scheduled to convene on March 17, 2014. The petitioner did not call in. She later contacted Appeal Hearings to reschedule, citing connectivity issues as the reason she did not call in as scheduled.

**APPEARANCES**

For Petitioner:



For Respondent:

Cindy Henline  
Agency for Health Care Administration

### ISSUE

Whether the petitioner's request for prior authorization of an MRI was correctly denied by respondent.

### PRELIMINARY STATEMENT

By notice dated February 2, 2014, the respondent informed the petitioner that her prior authorization request for "MRI any joint of lower extremity (knees)—without contrast" was denied. The notice explains the reason for the denial as follows, "advanced imaging service(s) is not medically necessary..."

On February 3, 2014, the petitioner timely requested a hearing to challenge the respondent's decision.

There were no additional witnesses for the petitioner. The petitioner did not submit exhibits.

Dr. Naveen Gande, medical director of eQ Health Solutions (eQ), was present as a witness for the respondent. Respondent's composite exhibit was admitted into evidence.

### FINDINGS OF FACT

1. The petitioner (age 49) is a Florida Medicaid recipient. She suffers from fibromyalgia, knee and back pain. The petitioner asserts her mobility and social activity are limited because of her medical condition; she takes multiple medications to address the pain.

2. The petitioner sought medical services to address pain in her right knee. Her treating physician ordered an x-ray to help diagnose the source of her pain. The

petitioner asserts that she, due to severe pain, was not able to lie on the metal x-ray table.

3. After the aborted x-ray attempt, the petitioner's treating physician requested prior authorization for an MRI, an alternative diagnostic procedure.

4. The respondent contracts with Simply Better Health to perform prior authorization of numerous medical services, including outpatient diagnostic services. Simply Better Health subcontracts with eQ to perform prior authorization of outpatient diagnostic services.

5. eQ Outpatient Review History summarizes the petitioner's presenting symptoms: "Ms. [REDACTED] complains of pain in right knee and has to wear a soft brace for support so knee will not lock up on her as bad. Her pain is 4 when not using her knee so much and a 7 when being used a lot."

6. eQ determined that an MRI was not medically necessary because no prior X-rays were performed. The prior authorization request was denied.

7. Dr. Gande, eQ medical director, explained that X-rays are the initial diagnostic tool used to address joint pain because x-rays are less invasive and patients are exposed to less radiation.

8. Dr. Gande explained further that cushions can be used to make the x-ray experience more comfortable for the petitioner. In addition, there are x-ray devices which allow the patients to remain standing. Laying on a flat metal table is no longer the only option.

**CONCLUSIONS OF LAW**

9. Pursuant to an interagency agreement, the Department of Children and Families' Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties. The Office of Appeal Hearings provided the parties with adequate notice of the administrative hearing.

10. The Florida Medicaid Program is authorized by Chapter 409, Florida Statutes, and Chapter 59G, Florida Administrative Code. The Program is administered by the Agency for Health Care Administration.

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

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

13. Pursuant to Fla. Admin. Code R. 65-2.060(1) the burden of proof was assigned to the petitioner.

14. 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). The preponderance of the evidence standard requires proof by "the greater weight of the evidence" (Black's Law Dictionary at 1201, 7th Ed.).

15. Florida Statute § 409.912 instructs the respondent "...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 requires the respondent to "...operate or contract for the operation of utilization management and incentive

systems designed to encourage cost-effective use of services and to eliminate services that are medically unnecessary.”

16. In accordance with the cited authority, the respondent contracts with Simply Better Health to perform prior authorization of numerous medical services, including outpatient diagnostic services. Simply Better Health subcontracts with eQ to perform prior authorization of outpatient diagnostic services.

17. Fla. Admin. Code R. 59G-1.010 requires that any medical or allied care, goods, or services furnished or ordered under Medicaid must be medically necessary.

18. Fla. Admin. Code R. 59G-1.010(166), 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 patient'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, (emphasis added)**
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.

19. The petitioner is experiencing pain in her right knee; she has requested prior authorization for an MRI to determine the cause of her pain. The respondent denied the

petitioner's request because she has not had an x-ray of the knee. An X-ray is a more conservative, less invasive method of diagnosing knee pain; patients are exposed to less radiation than that received during an MRI.

20. The petitioner asserts that she cannot lie on metal x-ray table, it causes her great pain. The respondent argues that cushions can be used to make the petitioner more comfortable. In addition, there are x-ray machines which allow patients to remain standing.

21. After carefully reviewing the evidence and controlling legal authorities, the undersigned concludes that the petitioner did not meet her burden of proof. The petitioner did not prove, by a preponderance of the evidence, that an MRI meets the medically necessary threshold for Medicaid payment. The petitioner's diagnostic needs can be met by X-ray. Medicaid rule prohibits provision of services in excess of a patient's needs.

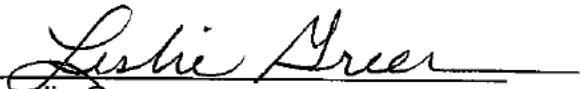
### **DECISION**

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 29<sup>th</sup> day of May, 2014,  
in Tallahassee, Florida.

  
Leslie Green  
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Copies Furnished To:  Petitioner  
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