

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

FILED

MAR 06 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 15F-00028

PETITIONER,

Vs.

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

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on February 6, 2015 at 11:05 a.m.

APPEARANCES

For the Petitioner:



Pro Se

For the Respondent:

Carol King
Registered Nurse Specialist

ISSUE

At issue is whether the denial of a computed tomography (CT) scan of petitioner's neck without contrast was proper.

PRELIMINARY STATEMENT

Petitioner entered no exhibits into evidence.

Ms. King appeared as both the representative and witness for the respondent.

Present as a witness from MedSolutions was Dr. Ralph Templin, D.O. and Associate

Medical Director. Respondent's exhibits "1" and "2" were accepted into evidence. Administrative Notice was taken of Fla. Admin. Code R. 59G-1.010 and the Florida Medicaid Practitioner Services Coverage and Limitations Handbook.

The record was held open through February 13, 2015 for respondent to provide information pertaining to petitioner's share of cost in the Medically Needy Program.

The information was not received.

FINDINGS OF FACT

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

1. The Department of Children and Families (DCF) determines Medicaid eligibility.
2. From July 1, 2014 through November 30, 2014 petitioner's Medicaid category was "MS". This designation represents Supplemental Security Income (SSI) related Medicaid.
3. On November 30, 2014 petitioner's Medicaid status of "MS" ended. Respondent's Florida Medicaid Managed Information System (FLMMIS) shows no Medicaid eligibility for the petitioner after that date. FLMMIS also shows petitioner's SSI ended November 30, 2014.
4. Effective December 1, 2014 petitioner transitioned to Medicaid's Medically Needy Program with an unspecified share of cost.
5. For those in the Medically Needy Program, Medicaid eligibility is determined on a monthly basis. The individual must submit medical bills to DCF. The individual becomes Medicaid eligible on the day when allowable medical expenses equal the

designated SOC. The individual is then Medicaid eligible from that date until the end of the month. The entire process starts over the following month.

6. In June 2014 petitioner was diagnosed with squamous cell carcinoma in the neck. Chemotherapy and radiation treatments followed.

7. Respondent contracts with MedSolutions to review requests for diagnostic imaging, including CT Scans. The review is to determine whether the requested procedure is medically necessary.

8. On December 22, 2014 petitioner's radiation oncologist requested a CT scan of the neck. The scan was requested without contrast followed by contrast material(s).

9. MedSolutions' case notes demonstrates the petitioner has a SOC. The dollar amount of the SOC was not identified.

10. All information submitted by petitioner's radiation oncologist was then reviewed by MedSolutions' Medical Director.

11. On December 23, 2014 MedSolutions issued a notice which stated, in part:

The information provided indicates the imaging to be requested either without contrast or both without and with contrast. CT Imaging, with contrast only, is usually performed and is sufficient in the diagnosis or follow-up of malignancies. Non-contrast CT is considered if contrast is contraindicated or conditions such as allergy or renal insufficiency exist. CT, both without and with contrast, is not routinely performed and does not add significant diagnostic information above and beyond that provide by CT with contrast, unless a specific imaging need is identified. The clinical information provided does not describe any other conditions. Therefore, CT with contrast only can be approved as an alternative.

12. MedSolutions contacted petitioner's radiation oncologist who accepted the approval of a CT scan with contrast, only. The scan, however, was not completed due to the change in petitioner's Medicaid status.

13. On January 2, 2015, petitioner contacted the Office of Appeal Hearings and requested a fair hearing.

14. Petitioner states his medical condition is deteriorating. At present, he is unable to swallow food. His nutritional intake is limited to protein shakes. He hasn't been evaluated by a physician since November 2014.

15. Respondent asserts only a CT scan with contrast is medically necessary.

16. Respondent also asserts petitioner should contact DCF and determine why his Medicaid status changed on December 1, 2014. If the Medically Needy Program is the appropriate Medicaid status, he should verify the SOC was correctly determined and then submit appropriate medical bills to DCF.

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. The burden of proof is assigned to the petitioner. 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.).

21. The Findings of Fact establish petitioner's Medicaid status of "MS" ended on November 30, 2014. On December 1, 2014 he transitioned to the Medically Needy

Program with a monthly SOC. Although the amount of the monthly SOC is not known, neither evidence nor testimony demonstrate the petitioner's Medicaid status is anything other than the Medically Needy Program.

22. Petitioner has requested a CT scan with and without contrast. To be approved, each scan must be medically necessary.

23. Fla. Admin. Code R. 59G-1.010(166) provides the following definition:

(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,
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 covered service.

24. The Findings of Fact establish MedSolutions determined a CT scan with contrast was medically necessary.

25. Regarding the CT scan without contrast, each condition of medical necessity must be satisfied. Medical necessity is not subject to a personalized definition. Rather, the definition in Fla. Admin. Code R. 59G-1.010 is the controlling authority.

26. Persuasive evidence in support of a CT scan without contrast was not presented.

It is noted that the ordering physician, when contacted by MedSolutions, accepted a CT scan with contrast. As such, medical necessity for a CT scan without contrast has not been demonstrated. The following conditions of medical necessity have not been satisfied:

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 safely be furnished, for which no equally effective and more conservative or less costly treatment is available statewide; and, ...

27. Although the CT scan with contrast was determined to be medically necessary, petitioner has not accessed the procedure due to his new Medicaid status.

28. Regarding the Medically Needy Program, Fla. Admin. Code R. 65A-1.701,

Definitions, states in part:

(30) Share of Cost (SOC): SOC represents the amount of recognized medical expenses that a Medically Needy enrolled individual or family must incur each month before becoming eligible to receive Medicaid benefits for medical expenses incurred during the remainder of the month.

29. The Florida Medicaid Provider General Handbook (Provider Handbook)

continues by providing the following clarification on page 3-31

A Medically Needy recipient becomes eligible on the day that the recipient incurs allowable medical expenses that equal the amount by which his income exceeds the Medicaid income standard (share of cost). The recipient must submit his medical bills to DCF, and DCF makes the eligibility determination. The recipient will be eligible through the end of the month.

30. The above authorities explain that petitioner must incur allowable medical expenses each month which, at a minimum, equal his SOC. The bills must then be submitted to DCF for processing. On the date allowable medical expenses equal or exceed the SOC, the petitioner would be Medicaid eligible from that date until the end of the month.

31. Respondent's recommendation that petitioner contact DCF regarding enrollment in the Medically Needy Program is worthy of pursuit. If desired, petitioner can inquire why his Medicaid status was changed to the Medically Needy Program on December 1, 2014. Additionally, his monthly SOC can be ascertained and bills submitted for processing.

32. The Medically Needy Program can be confusing for both a recipient and a provider. A brochure, which was downloaded from the DCF website, is attached to this order. This information was found at:

<http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/medicaid>

33. The only issue before the undersigned is whether respondent's denial of a CT scan without contrast was proper. Petitioner has not demonstrated, by the required evidentiary standard, that respondent's action in this matter was incorrect. All matters concerning Medicaid eligibility should be further addressed with DCF.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, petitioner's 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 6th day of March, 2015,

in Tallahassee, Florida.



Frank Houston
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal_Hearings@dcf.state.fl.us

Copies Furnished To:

██████████ Petitioner
Carol King, Field Office 9 Medicaid

Helpful Websites

Information on

Public Assistance Benefits

If you have questions about the Medically Needy Program or other Public Assistance benefits, want to see a list of our service centers, fax numbers or apply for benefits, visit our website: www.myflorida.com/accessflorida

Medical Coverage for Children under age 19:

www.Floridakidcare.org

OR

www.health4kids.org

The following websites provide information on various programs for free or low cost prescriptions for certain medications:

www.benefitscheckup.org

www.medicare.gov

www.pparx.org

www.needymeds.com

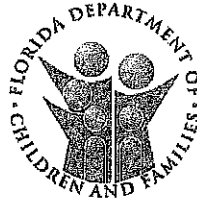
www.rxassist.org

www.aarp.org/fl

www.togetherrxaccess.com

www.nacds.org

You may contact the Elder Helpline at (800) 963-5337.



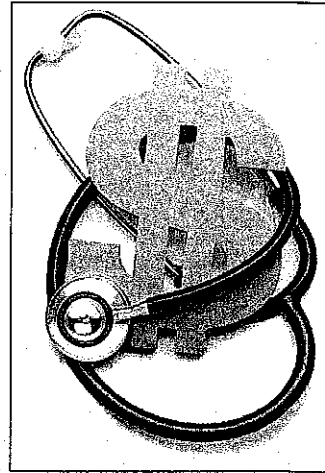
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CFM 165-70, Sep 2014

Department of
Children and Families

Medically Needy Program



An Explanation of
"Share of Cost"



Department of Children and Families

Medically Needy Program

What is the Medically Needy Program?

The Department of Children and Families (DCF) determines eligibility for the Medically Needy Program. It may also be referred to as the "Share of Cost" program. The Medically Needy Program assists individuals who would qualify for Medicaid except for having income that is too high.

What is a share of cost?

Individuals enrolled in Medically Needy may have a monthly "share of cost", which is similar to an insurance deductible. The share of cost is determined by household size and gross monthly income. When there are changes to the household size and income, the share of cost amount may change.

How does the share of cost work?

Submit any allowable unpaid or paid medical expenses to DCF to determine if the share of cost has been met. Once the allowable medical expenses equal the share of cost, the individual is eligible for Medicaid for the rest of that month.

Example #1: Your share of cost is \$800. You go to the hospital on May 10 and send us the bill for \$1000. You have met your share of cost. If the provider accepts Medicaid, that bill will be paid and you will be eligible for Medicaid through the end of May.

Example #2: Your share of cost is \$800. You go to the hospital on May 10 and receive a bill for \$750. On May 12 you go to the physician and receive a bill for \$150. You send us both bills. Your share of cost was met on May 12th because the total of the two medical expenses were more than the amount of your share of cost. If the provider accepts Medicaid, the May 12th bill will be paid and you will be eligible for Medicaid through the end of May. (These are only examples.)

Some examples of medical expenses that can be used to meet the "share of cost"

- Unpaid medical bills owed that have not been used to meet the share of cost before.
- Medical bills the individual paid within the last three months.
- Health insurance premiums
- Medical bills that will not be paid by health insurance or any other source.
- Co-pays for medical bills.
- Medical services prescribed by a doctor.
- Transportation by ambulance, bus or taxi to get medical care.

Some examples of medical expenses that *cannot be used to meet the "share of cost"*

- Premiums for insurance policies that pay the individual money for hospitalization
- Over the counter medical supplies, such as bandages, cold remedies, etc.

Whose medical expenses can be used to meet the "share of cost"?

Allowable medical expenses can be used to meet the share of cost for any household member whose income and needs are considered to determine Medicaid eligibility, even if that individual is not Medicaid eligible.

More information about "share of cost" program

Visit our web address below for additional information about the Medically Needy Program, to apply for benefits, or a listing of DCF service centers and fax numbers.

www.myflorida.com/accessflorida

How to submit proof of medical expenses?

Proof of medical expenses can be submitted by fax, mail, or in person. Be sure to include your name and case number on medical expenses.

Some examples of proof of medical expenses are:

- Medical bills an individual received.
- Receipts for medical bills.
- Cancelled checks for paid medical bills.

Visit www.myflfamilies.com/access-service-centers for a listing of service center locations and fax numbers.

What services are covered by Medicaid?

For additional information on the services covered by Medicaid, visit:

www.shca.myflorida.com/medicaid/flmedicaid.shtml

For information about Medicaid providers visit

www.mymedicaid-florida.com

Some medical providers do not accept Medicaid or Medically Needy.

Some medical providers do not accept Medicaid or Medically Needy.

Remember to tell your provider that you are on Medically Needy before making an appointment.



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