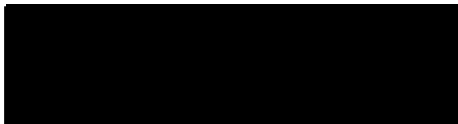


STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

FILED

APR 02 2015

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-00077

PETITIONER,  
VS.

CASE NO.  
AGENCY FOR HEALTH CARE ADMINISTRATION  
CIRCUIT: 12 SARASOTA  
UNIT:

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, a telephonic hearing in the above-styled matter convened on January 29, 2015 at 2:39 p.m. and reconvened on February 4, 2015 at 9:13 a.m.

**APPEARANCES**

For the Petitioner:  Petitioner

For the Respondent: Karen Brooks  
Program Operations Administrator  
Agency for Health Care Administration

**STATEMENT OF ISSUE**

At issue is whether Respondent's denial of Petitioner's request for a PET scan was proper.

**PRELIMINARY STATEMENT**

The Agency for Healthcare Administration (AHCA or Agency) is responsible for administering Florida's Medicaid Program. AHCA contracts with MedSolutions, Inc.

("MedSolutions") to provide prior authorization reviews for outpatient advanced diagnostic imaging for MRI, CT, and PET scans.

Dr. Robert Ketch, Associate Medical Director with MedSolutions, appeared as a witness for the Respondent.

Respondent entered three exhibits into the record at the time of hearing, marked as Respondent's composite exhibit 1, Respondent's exhibits 2 and 3. Petitioner submitted one exhibit, marked and entered as Petitioner's exhibit 1.

### **FINDINGS OF FACT**

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

1. Petitioner is an adult female with a history of lung cancer. She had past CT scans, which showed chest abnormalities, but her most recent CT scan on October 6, 2014 was considered normal.

2. Petitioner went to the hospital on December 28, 2014 where a mass a in her lung was found. The hospital advised her to follow up with her oncologist and have a PET scan. Petitioner provided the hospital discharge instruction paperwork that indicated:

...the findings are more consistent with swollen lymph nodes, but we cannot exclude that it is not a cancerous lesion on your chest. YOU NEED TO FOLLOW UP with your oncologist. Will likely need for imaging, possible PET scan....

The hospital discharge paperwork provided did not include a report describing what exactly appeared in the imaging.

3. Petitioner's doctor requested preauthorization for a PET scan on December 31, 2014. MedSolutions denied this request on December 31, 2014 because there was not enough information.

We are unable to approve the requested procedure based on MedSolutions Oncology Imaging Guidelines. The clinical information provided does not describe the results of a recent detailed history, physical examination, laboratory studies, and/or imaging studies relevant to the imaging procedure requested or other meaningful contact (telephone call, electronic mail or messaging) by an established patient.

4. Petitioner's doctor submitted another request on January 13, 2015. The doctor requested a peer-to-peer conference to discuss Petitioner's case on the phone with a MedSolutions doctor. Petitioner's doctor was unable to complete the conference due to other patients. As a result the request was denied again by letter dated January 13, 2015 for lack of information, stating specifically:

We are unable to approve the requested procedure based on MedSolutions PET Imaging Guidelines. The clinical information provided does not describe a cancer other than uterine, vaginal, or vulvar cancer. PET scan is not indicated for these cancer types.

5. MedSolutions contacted Petitioner's doctor on January 19, 2015 to reschedule the conference. During that conversation, a staff member in Petitioner's doctor's office informed MedSolutions that the call would not be rescheduled because the doctor was going to order CT scans instead of a PET.

6. Petitioner previously had a CT scan completed, which did not indicate a need for further imaging. Petitioner's physician did not provide any more documentation or justification for the PET scan. As a result, MedSolutions denied the request because it did not comply with MedSolutions' guidelines for PET scan indications.

7. Petitioner is having ongoing breathing difficulties, coughing and wheezing, losing her voice, and lots of pain. She has followed up with multiple doctors since the hospital visit. Petitioner asserts all of her doctors have told her she needs this PET scan. However, no other requests for a PET scan were submitted to MedSolutions.

8. MedSolutions suggested that Petitioner consult her treating doctor and have him or her resubmit the PET scan request with more supporting documentation.

### **CONCLUSIONS OF LAW**

9. By agreement between AHCA and the Department of Children and Families, the Office of Appeal Hearings has jurisdiction to conduct this hearing pursuant to Florida Statutes Chapter 120.

10. Legal authority governing the Florida Medicaid Program is found in Fla. Stat. Chapter 409, and in Chapter 59G of the Florida Administrative Code. Respondent, AHCA, administers the Medicaid Program.

11. This is a Final Order, pursuant to Sections 120.569 and 120.57, Florida Statutes.

12. This hearing was held as a *de novo* proceeding, in accordance with Florida Administrative Code Rule 65-2.056.

13. The burden of proof was assigned to Petitioner in accordance with Florida Administrative Code Rule 65-2.060(1). The standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence, as provided by Florida Administrative Code Rule 65-2.060(1).

14. Section 409.912, Florida Statutes (2014), provides that AHCA shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care.

15. Section 409.905, Florida Statutes (2014), addresses mandatory Medicaid services under the State Medicaid Plan:

Mandatory Medicaid services.--The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law....

16. Florida Administrative Code Rule 59G-1.010(166) defines medical necessity, as follows:

"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; 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 medical necessity or a covered service.

17. Part of the medical necessity rule above is that the service must be consistent with the generally accepted professional medical standards as determined by the Medicaid program. The Medicaid Practitioner Services Coverage and Limitations

Handbook (April 2014) ("The Handbook") is promulgated into law by Florida Administrative Code Rule 59G-4.205(2). At page 2-99, the Handbook explains that radiology and nuclear medicine requests, such as a PET scan, require prior authorization through the quality improvement organization (QIO). In this case, that is MedSolutions.

18. Clinical documentation is required in order to make a decision on medical necessity based on the imaging guidelines. There was very little medical documentation submitted with the PET scan request to determine if the request met the criteria in the guidelines. In general, the oncology guidelines<sup>1</sup> state that PET scans should not be used unless there is inconclusive conventional imaging or tumor specific circumstances, and should not be used concomitantly with separate diagnostic CT. In this case, Petitioner had a separate CT scan within 3 months of the PET request that appeared normal. More clinical documentation is needed to determine why a PET scan is needed for Petitioner's specific mass. There is not enough medical documentation to support a PET scan.

19. Petitioner believes the PET scan is indicated in her hospital discharge information. However, the information submitted with the request for the PET scan did not contain sufficient information to indicate the scan is medically necessary. It is apparent that Petitioner has medical needs, but she did not meet her burden of proof to show that she needs a PET scan specifically.

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<sup>1</sup> Page 2-99 of the Handbook states that the QIO's current prior authorization process, including the clinical guidelines it uses for determining medical necessity, is available online at <http://www.medsolutions.com/implementation/AHCA/>. Page 7 of the MedSolutions Oncology Guidelines states the general guidelines for PET scans. The guidelines can be found at the above link by clicking on "Clinical Guidelines" and then "Radiology," then click "Oncology Imaging Guidelines."

20. Based on the evidence presented, the Petitioner did not meet her burden of proof and the Agency's action was proper.

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Petitioner's appeal is hereby DENIED and the Agency's action is 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 2<sup>nd</sup> day of April, 2015,

in Tallahassee, Florida.

  
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