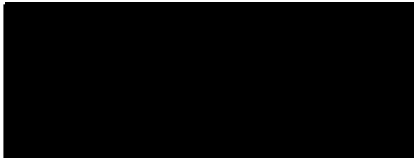


STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

MAR 25 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



PETITIONER,

APPEAL NO. 15F-00361

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 11 Dade
UNIT: AHCA

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on February 9, 2015 at 10:02 a.m.

APPEARANCES

For the Petitioner: Pro Se

For the Respondent: Linda Latson, Registered Nurse Specialist, Agency for Health Care Administration (AHCA).

STATEMENT OF ISSUE

At issue is the Agency's action to deny Petitioner's request for procedure 78815:Tumor imaging, positron emission tomography (PET) with concurrently acquired computed tomography (CT) for attenuation correction and anatomical localization; skull base to mid-thigh.

PRELIMINARY STATEMENT

Sandra Moss, Program Administrator for Region 11 AHCA and Dr. Ralph Templin, Associate Medical Director for MedSolutions, appeared as witnesses for the Respondent. Respondent entered six exhibits into the record, without objection, which were marked as Respondent Exhibits 1 through 6.

FINDINGS OF FACT

1. The Petitioner is a 63 year-old Medicaid recipient enrolled in the Florida Medicaid Share-of-Cost program. This plan requires her to pay a specified amount of out-of-pocket medical expenses before Medicaid coverage becomes effective. She has a history of breast cancer and received a PET/CT imaging scan from the base of skull to the mid- thighs in October 2013. She received the requested PET/CT scan on October 21, 2014 without prior authorization from MedSolutions, Inc. She did not anticipate that the procedure would be denied.

2. AHCA entered into a contract with MedSolutions, Inc. to perform prior authorizations of outpatient advanced diagnostic imaging for MRI, CT, and PET scans. MedSolutions, Inc. has the authority to make determinations of medical necessity on behalf of the Medicaid Program.

3. MedSolutions received the initial request for a PET scan on October 15, 2014 and denied the request on October 21, 2014 because the provider needed to first use the more conventional imaging studies, including CT, MRI or bone scan. If the results were inconclusive, then the request for a PET scan could be re-reviewed.

4. Subsequent to the Petitioner timely filing for a hearing on January 8, 2015, MedSolutions conducted a second review of the request and denied it on February 5, 2015 for the same reasons.

5. The Petitioner explained she followed her doctor's advice in getting a PET scan, which she felt was the best scanning procedure available. She received the PET scan prior to getting a response to the prior authorization request.

6. MedSolutions' doctor explained that the CT and MRI scans are preferable because their outcome measure criteria have been established in the medical field. The PET scan, however, is absent any standard and the resulting measurements of activity disease assessment cannot be validated. Only when the CT and MRI scans are inconclusive is the PET scan authorized.

CONCLUSIONS OF LAW

7. 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 Chapter 120.80, Fla. Stat.

8. This is a final order pursuant to § 120.569 and § 120.57, Fla. Stat. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

9. Burden of proof was assigned to the Petitioner in accordance with Fla. Admin. Code R. 65-2.060 (1). Per the rule, the standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence.

10. The Florida Medicaid Program is authorized by Chapter 409, Fla. Stat. and Chapter 59G, Fla. Admin. Code. The Medicaid Program is administered by the respondent.

11. Fla. Admin. Code R. 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...[emphasis added]

12. 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. Respondent's physician witness testified that a PET scan is appropriate only after the results of a CT and MRI scan are inconclusive. At the time of the PET scan prior authorization request, results of a CT or MRI scan were not provided.

13. Respondent's witness also noted that the CT and MRI scans have measures with accepted criteria. PET scans do not have accepted criteria and the resulting measurements cannot be validated.

14. After considering the evidence and all of the appropriate authorities set forth in the findings above, the undersigned is in agreement with the Respondent's decision to deny the prior authorization for the PET scan. However, as mentioned in the findings of fact, Petitioner already received the service at issue.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is DENIED and the Agency 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 agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 25th day of March, 2015,

in Tallahassee, Florida.

Warren Hunter

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Rhea Gray, Area 11, AHCA Field Office Manager