

Jan 25, 2016

Office of Appeal Hearings
Dept. of Children and Families

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



APPEAL NO. 15F-07582

PETITIONER,

Vs.

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 November 30, 2015 at 11:30 a.m.

APPEARANCES

For the Petitioner:



For the Respondent:

Monica Otalora, Senior Program Specialist
Agency for Health Care Administration (AHCA)

STATEMENT OF ISSUE

At issue is whether the Respondent's denial of Petitioner's request for a retinal scan and related office visits was correct. The Petitioner has the burden of proving her case by a preponderance of the evidence.

PRELIMINARY STATEMENT

The Petitioner did not submit any documents as evidence for the hearing.

Appearing as witnesses for the Respondent were Susan Frischman, Senior Compliance Analyst, Stephanie Wells, Health Services Director, and Dr. Miguel Fernandez, Chief Medical Officer, from United Healthcare, which is the Petitioner's managed health care plan.

Respondent submitted the following documents as evidence for the hearing: Exhibit 1 – Statement of Matters; Exhibit 2 – Grievance/Appeal Investigation screenshots; and Exhibit 3 – Denial Notice.

FINDINGS OF FACT

1. The Petitioner is an adult Medicaid recipient over the age of twenty-one (21) who is enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA) plan. She receives services under the plan from United Healthcare.
2. On or about August 14, 2015, Petitioners' treating physician submitted an authorization request to United Healthcare for approval of an office visit and a retinal scan.
3. On or about August 21, 2015, United Healthcare denied the pre-authorization request for the office visit and retinal scan. The denial notice stated the following:

You have a problem with your eye. Your doctor asked for an office visit and a scan of the retina. This is denied. Your health plan requires information from your doctor to show you need this service. We did not get this information. We need to know what symptoms you are having.

Once we get this information from your doctor we will look at this request again. Please ask your doctor to send the information we need.

4. The Petitioner testified she had surgery for a detached retina in March, 2015. Her primary care physician thereafter referred her to [REDACTED] for a retinal scan and three office visits. She stated the retinal scan was performed in September, 2015 but two follow-up office visits were denied. She also stated she had not yet been billed for the retinal scan.

5. The Respondent's witnesses stated that the provider of the retinal scan, [REDACTED] is not a participating provider within the United Healthcare network and the service was not approved as an out-of-network service due to a lack of clinical information submitted by the provider. They also stated that there are retinal specialists within the United Healthcare network available to perform this type of service.

6. Services under the Medicaid State Plan in Florida are provided in accordance with the Respondent's Florida Medicaid Provider General Handbook ("Medicaid Handbook"), effective July, 2012.

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 § 120.80, Fla. Stat.

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

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

10. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof was assigned to the Petitioner. The standard of proof in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by “the greater weight of the evidence,” (Black’s Law Dictionary at 1201, 7th Ed.).

11. 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.

12. The Medicaid Handbook and Fla. Admin. Code R. 59G-1.010(166) define 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;
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.

13. The undersigned concludes that there is no relief which can be afforded to the Petitioner as part of the Medicaid fair hearing process with respect to the

issue of the retinal scan since the Petitioner had the retinal scan procedure performed on her in September, 2015. Therefore, that issue is now moot.

14. With regard to the denial of the follow-up office visits related to the retinal scan, the undersigned concludes that United Healthcare properly denied those requested services since the provider was not part of the United Healthcare network and the provider did not submit the clinical information requested by United Healthcare. Therefore, the second prong of the medical necessity criteria was not satisfied – that the service must 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.”

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is DENIED.

NOTICE OF RIGHT TO APPEAL

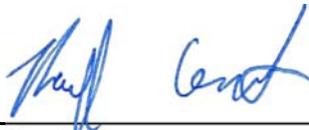
This decision is final and binding on the part of the agency. If the Petitioner disagrees with this decision, the Petitioner may seek a judicial review. To begin the judicial review, the Petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Agency for Health Care Administration, 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 agency has no funds to assist in this review, and any financial obligations incurred will be the Petitioner's responsibility.

FINAL ORDER (Cont.)

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DONE and ORDERED this 25 day of January, 2016,
in Tallahassee, Florida.



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