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

[redacted]

APPEAL NO. 15F-09886

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 20 Collier
UNIT: AHCA

RESPONDENT.
_____/

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 8, 2016 at 11:30 a.m.

APPEARANCES

For the Petitioner: [redacted] Petitioner

For the Respondent: Susan Chillari, Program Analyst
Agency for Health Care Administration (AHCA)

STATEMENT OF ISSUE

At issue is whether the Respondent's denial of the Petitioner's request for a MRI scan was correct. The Petitioner bears the burden of proving his case by a preponderance of the evidence.

PRELIMINARY STATEMENT

Appearing as witnesses for the Respondent were Natalie Fernandez, Government Contracts Specialist, Alice Quiroz, A.V.P. of Government Contracts, Elvira Leyva, Health Care Services Manager, and Dr. Theresa Blanco, Medical Director, from Molina Healthcare, which is the Petitioner's managed health care plan.

The Petitioner submitted medical records as evidence for the hearing, which were marked as Petitioner Exhibit 1.

Respondent submitted the following documents as evidence for the hearing, which were marked as Respondent Exhibits: Exhibit 1 – Authorization Request and Medical Records; Exhibit 2 – Denial Notice; and Exhibit 3 – Review Criteria.

FINDINGS OF FACT

1. The Petitioner is a fifty-seven (57) year-old Medicaid recipient who is enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA) plan. He receives services under the plan from Molina Healthcare. He began his coverage with Molina on November 1, 2015.

2. On or about December 28, 2015, the Petitioner's treating physician (hereafter referred to as "the provider"), requested prior authorization from Molina to perform a MRI scan of the right knee. Molina denied this request on December 29, 2015 as not being medically necessary.

3. Molina sent Petitioner a Denial Notice dated January 4, 2016, which contained the following reason for the denial:

> The asked for MRI scan of your knee is not approved. Using standard and accepted rules a Molina Healthcare doctor has looked at this request and determined that, based on the medical records which were given to us, this test is not medically necessary. We see from the records your doctor sent us that you have knee pain. You have not had an injury to your knee. You do not have weakness or numbness anywhere on your body. You do not have signs of broken bones or infection in your knee. You have not completed 4 to 6 weeks of physical therapy and taking full-strength anti-inflammatory medicine which is needed before we can approve this MRI scan. Please talk to your doctor about your treatment options. If you still have the problem after you complete the treatment your doctor can send us a new request for the MRI scan.

4. The Petitioner suffers from pain in his knee due to a car accident he experienced in October, 2013. He had a prior hip replacement due to the car accident as well. He had an x-ray performed on his knee which did not reveal the cause of the pain.

5. The Petitioner also stated his prior health coverage was with a company called Integral Quality Care, which was acquired by Molina and he became covered by Molina on November 1, 2015. He believes that Integral had pre-authorized the MRI scan in October, 2015. However, neither party has any written copy of this pre-authorization determination.

6. The Respondent's expert witness, Dr. Blanco, testified that the denial of the Petitioner's request for the MRI scan was appropriate because medical necessity guidelines require a failure of attempted physical therapy treatments prior to approval of a MRI scan. Dr. Blanco also stated the information submitted by the Petitioner's provider did not document an attempt and failure of physical therapy. In addition, Dr. Blanco stated there was no record of any prior approval of the MRI by Integral Quality Care.

7. 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

8. 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 Fla. Stat. § 120.80.

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

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

11. 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.).

12. The Florida Medicaid Program is authorized by Chapter 409, Florida Statutes, and Chapter 59G, Florida Administrative Code. The Medicaid Program is administered by the Respondent. The Medicaid Handbook referred to above is incorporated by reference in Fla. Admin. Code R. 59G-4.001.

13. Florida Statute § 409.912 requires that Respondent "…purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care."

14. 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.

15. Although Petitioner testified he is suffering from knee pain, he must also satisfy each of the remaining components of the rule's requirements concerning medical necessity. Respondent's medical expert testified that medical necessity guidelines require a failure of attempted physical therapy treatments prior to approval of a MRI scan and this was not established in the Petitioner's pre-authorization request. Although Petitioner's physician's reports indicate that out-patient physical therapy was prescribed, the outcome of that therapy has not yet been documented in the records.

16. Although the Petitioner's treating physician has requested the MRI scan, this does not in itself establish that this service is medically necessary according to the rule provisions outlined above.

17. Petitioner has not established by a preponderance of the evidence that his requested MRI scan is medically necessary as defined by Fla. Admin. Code R. 59G-1.010(166). After considering the evidence and relevant authorities set forth above, the undersigned concludes that the Petitioner has not met his burden of proof in establishing that the Respondent's action was incorrect.

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.

DONE and ORDERED this __10__ day of __February__, 2016,

in Tallahassee, Florida.

Rafael Centurion
Hearing Officer
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Copies Furnished To: [redacted] Petitioner
Dietra Cole, Area 8, AHCA Field Office Ma