

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

FILED  
JUL 23 2009  
OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-02523

PETITIONER,

Vs.

AGENCY FOR HEALTH  
CARE ADMINISTRATION  
CIRCUIT: 04 Duval  
UNIT: AHCA

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, an administrative hearing was convened before the undersigned hearing officer on May 7, 2009, at 11:10 a.m., in Jacksonville, Florida. The petitioner was not present; he was represented by his mother, . The respondent was represented by Lee Ann Williams, utilization management specialist with the agency and Deweece Ogden, medical health care analyst with the agency. Present as witnesses for the respondent telephonically were , regional care coordinator with and , behavioral specialist with

The record was held open for 14 days to allow both parties to submit additional evidence. Evidence was received from the respondent and entered as Respondent's Composite Exhibit 3. No evidence was received from the petitioner.

### ISSUE

At issue is the March 17, 2009 action by the agency terminating Medicaid payment for Statewide Inpatient Psychiatric Program (SIPP) services.

### FINDINGS OF FACT

1. The petitioner is a 17 year-old male with a history of emotional and mental illness. He was admitted to \_\_\_\_\_ for inpatient psychiatric treatment on March 3, 2009. The petitioner was discharged to home from the facility on April 18, 2009. The petitioner was subsequently incarcerated in a Duval County detention center.
2. Inpatient psychiatric services are mental health services provided in a residential setting for Medicaid beneficiaries 17 years of age or younger who suffer from mental illness or emotional disturbance. Medicaid reimbursable Inpatient psychiatric services must be medically necessary. Medical necessity is determined by a prior authorization review. \_\_\_\_\_ is the contracted agency that determines medical necessity on behalf AHCA.
3. Early March 2009 (exact date unknown as neither party provided a copy of the initial non-authorization letter), a non-authorization (termination) notice was sent to the petitioner terminating SIPP services. On March 17, 2009, First Health partially reversed its previous denial. The reconsideration notice reads in part:

"You requested a formal reconsideration of a previous denial. Our reconsideration review has partially reversed the previous determination. Therefore, \_\_\_\_\_ inpatient treatment was found to be medically necessary for 30 days(s) from 03-17-09 to 04-15-09... Certification for hospitalization beyond 04-15-09 was found not be medically

necessary under the terms of the Florida Medicaid Program. The needs of the recipient as described to us do not appear to require inpatient hospitalization, because:

Services cannot be reasonably expected to improve the recipient's condition or prevent regression so that the services will no longer be needed;

SIPP treatment not found to be medically necessary under the terms of the Florida Medicaid Program as of the Certified First Date;

Available information indicates that the symptoms on admission have stabilized and residual chronic symptoms are unlikely to improve significantly with continued SIPP treatment..."

4. The respondent asserted that a reviewing clinician (registered nurse) determined that the petitioner no longer met the definition of medical necessity based on reviewing clinical records submitted by the treating facility and a recommendation from [redacted] regional care coordinator. No additional information was provided regarding the decision making process of the reviewing clinician. The reviewing clinician did not appear as a witness nor were the records of the reviewing clinician relied upon to make the non-authorization decision provided during the hearing. The regional care coordinator for [redacted] did appear as a witness, but was not able to provide any evidence regarding the reviewing clinician's determination that the petitioner did not meet the medical necessity requirement. The facility's treating psychiatrist did not appear as a witness during the hearing. The treating facility's behavioral specialist did appear as a witness during the hearing. He explained that it was his job to monitor the petitioner's interaction with peers at the facility and he concluded that the petitioner made no

progress in his ability to interact with others during his stay. The behavioral specialist was not able to provide any additional information regarding the petitioner's psychiatric treatment or progress during his stay at the facility.

5. The petitioner's mother (she adopted the petitioner on [redacted]) asserted that the petitioner has history of violent behavior, homicidal tendencies, suicidal tendencies, substance and physical abuse. She believes the petitioner's stay at the SIPP facility was of such a short duration that no amount of reasonable progress could be expected. It is her belief that the petitioner should return to the SIPP facility for additional treatment. She submitted into evidence a letter from the petitioner's high school mental health therapist dated January 28, 2009 which states in part:

"I have been seeing [redacted] for weekly therapy sessions for the past year. [redacted] has numerous psychiatric diagnoses, including Attention Deficit Hyperactivity Disorder, Oppositional Defiant Disorder, Chronic Posttraumatic Stress Disorder and Reactive Attachment Disorder. [redacted] has a provisional diagnosis regarding substance abuse.

[redacted] was placed in foster care at approximately 2-3 years old after witnessing his mother murder his father and then attempting to kill herself. He has been in roughly 69 separate foster placements, numerous group homes and previous failed adoptions placements. [redacted] suffers from severe abandonment issues as well as repressed memories regarding physical, emotional and possible sexual abuse. As a result of these issues, [redacted] has difficulty forming normal attachments and understanding the difference between acceptable and non acceptable behaviors... Often, in working with children and teens with the aforementioned mental health diagnosis, behaviors will get much worse before they get better..."

The petitioner's mother also submitted into evidence a letter from the petitioner's outpatient psychiatrist dated February 4, 2009 which states in part:

"I highly recommend a locked-down residential treatment for [redacted]. He initially presented with ADHD, combined with a history of oppositional defiant disorder and posttraumatic stress disorder. However, he started presenting more symptoms consistent with bipolar disorder and alcohol abuse this past couple of months.

[redacted] is deteriorating in school-based treatment program. He sees his therapist but is noncompliant with his medications. His parents are unable to help him control his behaviors.

[redacted] leaves the house without informing his caregivers, comes home intoxicated, and is verbally and physically aggressive towards them. His parents, therapist and I are concerned about his safety and of those around him.

In a secured treatment program, my hope is that his bipolar disorder can be stabilized and he can remain sober so he can address his traumatic experiences and improve his future."

### CONCLUSIONS OF LAW

Medical services that are covered under Medicaid are defined as being "medically necessary" and are set forth in the Florida Administrative Code Rule 59G-1.010(166)(a)(c) 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.
- (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.

Fla. Admin. Code 65A 1-702 defines SIPP as:

- (16) Statewide Inpatient Psychiatric Program (SIPP) waiver. This program provides inpatient mental health treatment and comprehensive case management planning to enable discharge to less restrictive settings in the community for children under the age of 18 who are placed in an inpatient psychiatric program. Those who are Medically Needy and those who are Medicare recipients are excluded from this program. Services must be received from a designated provider selected by AHCA. This program provides an exception to provisions that residents of an institution for mental disease (IMD) are not eligible for Medicaid.

Agency for Health Care Administration Online Utilization Review Process states

in part:

Utilization Review - Quality Assurance/Quality Improvement  
Some Medicaid services are subject to utilization review by a Peer Review Organization (PRO) under contract with AHCA. The purpose of the utilization review program is to safeguard against unnecessary and inappropriate medical care rendered to Medicaid recipients. Medical services and/or records are reviewed for medical necessity, quality of care, appropriateness of place of service and length of stay (inpatient hospital).

The following Medicaid services are subject to review by a PRO:

Inpatient Hospital Services

Home Health Services

Community Mental Health Services

Home and Community Based Waiver Services for the Developmentally Disabled

The PROs currently under contract with the agency are Keystone Peer Review Organization (KePRO), First Health Services, Inc. and Delmarva Foundation.

First Health Services, Inc. performs Behavioral Health Utilization Management for the State of Florida. This includes statewide prior authorization of psychiatric inpatient services, on-site retrospective and quality of care reviews for community mental health services, behavioral health overlay services, and Statewide Inpatient Psychiatric Programs.

Florida Medicaid Summary of Services Handbook 2008 - 2009 states in Part:

#### Background

The statewide Inpatient Psychiatric Program (SIPP) serves Medicaid Beneficiaries 17 years of age or younger who require placement in a psychiatric residential setting due to serious mental illness or emotional disturbance...

#### Description

Requirements for a SIPP include provision of active mental health treatment with a child and family, extensive aftercare planning and coordination, follow-up and outcome measurement.

The objectives of the SIPP are:

Provide inpatient psychiatric services with an expected length of stay of 120 days;

Provide utilization management to endure appropriateness of admission, length of stay and quality of care;

Reduce relapses by providing aftercare services and/or linkages with appropriate community services; and

Reduce the length of stay of inpatient psychiatric service in acute care settings.

Eligibility

Medicaid beneficiaries who are potentially eligible for care in a SIPP program:

- Living in Florida;
- Are 17 years of age or younger
- Meet specific SIPP medical necessity clinical criteria; and
- Are eligible under one of the following Medicaid Eligibility categories: Temporary Assistance for Needy Families (TANF), related, Supplemental Security Income (SSI), and SSI-related

Authorization

Children must be referred through the Department of Children and Families (DCF) District Mental Health Offices, and the Agency's behavioral health care utilization contractor manager must authorize the admission and continued stays.

determined that the petitioner no longer met the "medically necessary" criteria for SIPP and terminated the services effective April 18, 2009.

However, there was no substantial evidence presented during the hearing to explain the respondent's decision. The reviewing clinician did not appear as a witness during the hearing, nor were the clinical records used during the utilization review submitted into evidence.

The petitioner's mother provided assessments completed by the petitioner's school therapist and out patient psychiatrist which make it clear that in their professional opinion, the petitioner is in need of inpatient psychiatric services. However, the findings show that the petitioner is now 18 years old; according to the above authorities he no longer qualifies for the coverage under the SIPP Medicaid Program. Because he no longer qualifies, there is no remedy for the undersigned to order.



**DECISION**

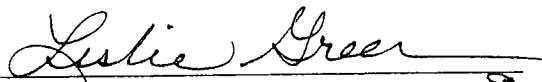
This appeal is dismissed as the issue is now moot. Because the petitioner no longer qualifies for the SIPP Medicaid coverage, there is no corrective action that can be ordered.

**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 23<sup>rd</sup> day of July, 2009,

in Tallahassee, Florida.



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