

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

FILED

OCT 23 2009

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-05017

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 13 Hillsborough
UNIT: AHCA

RESPONDENT.

FINAL ORDER

Per notice, a hearing was held before the undersigned hearing officer on September 2, 2009, at 3:38 p.m., in Tampa, Florida. The petitioner was present to testify and represent herself. David Beaven, program analyst with the Agency For Health Care Administration (AHCA), represented the respondent and testified. Two persons with Keystone Peer Review Organization (KePRO) appeared as witnesses for the respondent by telephone: Teresa Ashley, review operations supervisor, and Dr. Heidi McNanney-Flint, obstetrician and gynecologist (OB/GYN).

ISSUE

At issue is the respondent's decision of July 31, 2009 to deny the petitioner's request for inpatient hospitalization services. The respondent

determined that the request for a total abdominal hysterectomy is not medically necessary. The petitioner has the burden of proof.

FINDINGS OF FACT

1. The petitioner is 27 years old and married. She has a son who was born in January 2008. The petitioner is enrolled in the Medically Needy Program with a share of cost.
2. The petitioner has symptoms of chronic pelvic pain and continued bleeding. The petitioner underwent four separate laparoscopies since the year 2000 to evaluate these symptoms. The petitioner believes that she had prior diagnoses of endometriosis and adenomyosis as a result of these laparoscopies.
3. On July 23, 2009, the respondent's contracted KePRO organization received a request to perform a left salpingo-oophorectomy with a hysterectomy. This requested hysterectomy was to be performed at An OB/GYN with KePRO reviewed the documentation provided with this request. The documentation showed the petitioner to have complaints of bleeding and chronic pain, but no pathology was given to account for these symptoms. The reviewing KePRO OB/GYN then denied the requested hysterectomy in the absence of this documented pathology.
4. On August 7, 2009, KePRO received a request for reconsideration from the attending physician. The request then included listed diagnoses of Menorrhagia and Pelvic Pain that was not responsive to multiple oral

contraceptive pills. The request showed prior treatment and procedures included the three laparoscopies, a prior right salpingo-oophorectomy, dilation and curettage (D and C), and chronic pain medications. The documentation from the treating physician showed that the pain and bleeding affected the petitioner's marriage, work ability, and ability to maintain social contacts. The documentation also advised of an endometrious pelvic adhesion.

5. On April 14, 2009 KePRO attempted to schedule a peer to peer (P2P) review by phone with the attending physician. The KePRO medical director requested certain information to be available in this P2P review. KePRO observed that the initially submitted laparoscopies and ultrasound findings were normal. However, KePRO noted that later findings for the same period showed abnormal with diagnoses of endometriosis and adenomyosis. Thus, on August 14, 2009, KePRO requested clarification of the inconsistent findings with an endometrial biopsy in support of the diagnosis. Further, KePRO requested the duration of time the petitioner was treated with Lupron and the response. KePRO requested a workup GI and GU (bladder) to exclude such as the source of the pain.
6. On August 17, 2009 at 2:38 p.m., KePRO left a voice message with the requesting physician's office. The message was not returned as of 7:30 p.m. of the same day.
7. On August 19, 2009, the petitioner underwent an olation to see if the bleeding could be controlled. The petitioner understood that she would have about two days of bleeding after this surgery, but has experienced continued

bleeding. The KePRO OB/GYN opines that sufficient time has not elapsed to determine if the petitioner benefited from this ablation surgery. Further, the KePRO physician opines that there has been no medical measurement to show that the amount of any blood loss has affected the petitioner's quality of life.

8. The KePRO physician opines that there is insufficient documentation to conclude that the requested hysterectomy surgery will decrease the petitioner's pain symptoms and improve the petitioner's quality of life. There is insufficient evidence from the petitioner's treating physician to rebut this physician opinion.

CONCLUSIONS OF LAW

The Florida Administrative Code Rule 59G-4.150 addresses Inpatient Hospital Services under the Florida Medicaid Program, in pertinent part:

59G-4.150 Inpatient Hospital Services.

(1) This rule applies to all hospital providers enrolled in the Medicaid program.

(2) All hospital providers enrolled in the Medicaid program must comply with the Florida Medicaid Hospital Services Coverage and Limitations Handbook, incorporated by reference in Rule 59G-4.160, F.A.C., and the Florida Medicaid Provider Reimbursement Handbook, UB-04, incorporated by reference in Rule 59G-4.003, F.A.C....

Inpatient hospital services that are requested under the Florida Medicaid Program must meet the medical necessity criteria described in the Florida Medicaid Hospital Services Coverage and Limitations Handbook, chapter 2, as follows:

Covered Services and Limitations

Medical Necessity

Medicaid reimburses for services that are determined medically necessary, do not duplicate another provider's service, and are:

- Necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;
- Individualized, specific, consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the recipient's needs;
- Consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;
- Reflect the level of services that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide; and
- Furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

In this appeal, the treating physician has requested inpatient hospitalization services to perform a hysterectomy. However, the hospitalization request alone does not in itself make the requested hospitalization medically necessary as per the following in Chapter 2 of the referenced handbook:

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 covered service.

Bullet Number 2 shows that defined medically necessary services must be consistent with symptoms or confirmed diagnosis of the illness or injury under treatment to be defined as medically necessary. The opinion of the treating physician must be given considerable and substantial weight in the conclusion of the diagnosis of the illness and necessary treatment. There must be a conclusion of good cause to overcome the customary weight given the treating

physician's opinion (see C.F. v. Department of Children of Families, 934 So.2d 1(2005)).

In this appeal, there is minimal evidence from the petitioner's treating physician to confirm the petitioner's diagnoses, and the corresponding appropriate treatment. The reviewing KePRO OB/GYN noted that the first submission of documentation was absent any clinical documentation to support a conclusion of endometriosis, which was contrarily indicated in the second submission. The evidence shows that KePRO made a reasonable attempt to have a P2P review and conversation with the treating physician to clarify the later diagnosis of endometriosis in support of the requested hospitalization. There is no evidence to show this P2P review occurred, nor is there further evidence in support of the questionable diagnosis to support the request for hysterectomy.

In the absence of clarifying evidence from the treating physician, there is good cause to overcome the customary weight given the treating physician's opinion on the medical necessity of the requested hysterectomy surgery. Thus, the respondent's decision to deny the requested inpatient hospitalization for the hysterectomy is upheld.

DECISION

This appeal is denied and the respondent action affirmed.

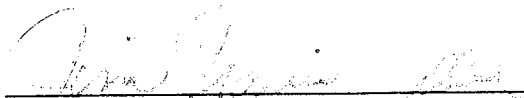
NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the Department. 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 First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the party resides. 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 Department has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE AND ORDERED this 23rd day of October, 2009,

in Tallahassee, Florida.



Jim Travis
Hearing Officer
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Copies Furnished To

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