

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

FILED

DEC 14 2009

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-07170

PETITIONER,

Vs.

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

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, an administrative hearing was convened before the undersigned-hearing officer on November 10, 2009, at 2:07 p.m., with all present including the hearing officer, over the telephone. The petitioner was present and represented herself at the hearing. The Agency was represented by Bill Blocker, attorney, from the Agency For Health Care Administration (AHCA), located in Tallahassee, Florida. Present as a witness was Mara Perez, senior human service program specialist, from the Agency For Health Care Administration (AHCA), out of Miami, Florida. Present as witness for the Agency was Dr. Frances George Hubert Jr., medical consultant, from AHCA, out of Tallahassee, Florida. He was also presented as an expert witness. Also present as a witness for the Agency, was Katherine Stevens, medical health care analyst, from AHCA, located in Tallahassee, Florida.

ISSUE

At issue is the Agency's action of September 29, 2009, to deny the petitioner's and her physician's request for a prior service authorization inpatient service that would cover as payment of a medical procedure for the petitioner through Medicaid. The petitioner has the burden of proof.

FINDINGS OF FACT

1. The petitioner is a Medicaid recipient in Miami-Dade County, Florida.
2. The Agency For Health Care Administration (AHCA) makes Prior (service) Authorization Process decisions. The service requested was for bilateral breast reduction surgery. The Prior Authorization Process was completed for the petitioner by AHCA located in Tallahassee, Florida. AHCA determined on September 29, 2009, the petitioner's request for the surgery or medical procedure would be denied. The request for the medical surgery was based on the petitioner's complaint of back pain.
3. The respondent submitted into evidence, Respondent Composite Exhibit 1. This Exhibit contains copies of the petitioner's treating physicians request for the prior authorization; medical information about the petitioner and the Agency's denial letter sent to the petitioner's doctor. The decision for denial was based on the lack of medical necessity for the surgery.
4. The respondent's expert witness indicated that the petitioner is obese and would benefit from a general weight loss instead of the breast reduction. He indicated that the petitioner; because of her weight problem, is at risk of further future medical complications, if she did not reduce her overall weight. He indicated that the requested

medical procedure does not meet the medical necessity criteria for the procedure to be covered by Medicaid.

CONCLUSIONS OF LAW

Fla. Admin. Code 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...

The Physicians Services Coverage and Limitations Handbook also explains on page 2-128 that; "Reduction mammoplasty, procedure code 19318 requires prior authorization for review by the Medicaid medical consultant when performed in any place of service."

As shown in the Findings of Fact, the Agency determined on September 29, 2009, the petitioner's request for prior service authorization inpatient service breast reduction surgery would be denied, based on being not medically necessary.

The petitioner argued that she agreed she had to reduce her overall weight; but that doing so will not reduce her breast size. She argued that she needs the breast reduction surgery, as her breasts are causing her back pain.

The Agency argued that the petitioner has not shown that the breast reduction surgery was medically necessary. The Agency argued that the petitioner would benefit from an overall weight loss much more (medically) significantly than receiving the breast reduction surgery. The Agency argued that the prior service authorization for the breast reduction surgery is not medically necessary. The hearing officer agrees with the Agency's argument(s).

After considering the evidence, the Fla. Admin. Code Rule and all of the appropriate authorities set forth in the findings above, the hearing officer affirms the Agency's action on September 29, 2009, to deny the petitioner's request for prior service authorization inpatient service breast reduction surgery, based on the request not meeting the medically necessary criteria for the Medicaid Program.

DECISION

This appeal is denied and the Agency's action 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

FINAL ORDER (Cont.)

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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 14th day of December, 2009,

in Tallahassee, Florida.

Robert Akel

Robert Akel
Hearing Officer
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Copies Furnished To

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