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

APPEAL NO. 09F-3956

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 July 28, 2009, at 8:20 a.m., in Miami, Florida. The petitioner was not present and was represented by his mother, Present as a witness for the petitioner was his grandmother, Present as an observer was , grandmother. Representing the respondent was Mara Perez, senior program specialist with the Agency for Health Care Administration (AHCA). Appearing as a witness was Dan Gabric, durable medical equipment analyst with the Bureau of Medicaid Services.

ISSUE

At issue is whether the respondent was correct in the April 20, 2009 denial of a prior authorization request for durable medical equipment (DME) based on not meeting the medical necessity criteria. The petitioner has the burden of proof.

FINDINGS OF FACT

1. The Agency for Health Care Administration is given the authority to administer Medicaid in the sate of Florida. This includes reviewing all prior authorization requests for durable medical equipment.
2. On March 10, 2009 an authorization request was submitted to AHCA by the provider (OrthoPro Associates), in order to obtain a cranial remolding orthosis for the petitioner (DOB [redacted]
3. Along with the request for the DME, a summary report (dated January 28, 2009) for Miami Children's Hospital and a Cranial Remodeling Orthosis Evaluation (dated January 28, 2009) showing the petitioner's measurements at the time of the request were submitted. The request also included a doctor's prescription requesting "occupational therapy for helmet.
4. The request was reviewed for medical necessity by the agency's physician consultant. The request was denied as it did not meet policy criteria in order to qualify for reimbursement. On April 20, 2009 the provider was notified of the denial.
5. The documentation provided on behalf of the petitioner showed that the petitioner did not meet the requirement of "infant's current cranial index of symmetry (CIS) is <83." The documentation that was submitted showed CIS was 87.6 and color photographs were not included with the request as required. The physician consultant's reason for denial, "cephalic index is less than 2 standard deviations."

6. The petitioner's mother did not agree with the denial and filed for an appeal of the prior authorization denial on June 17, 2009.

CONCLUSIONS OF LAW

59G-1.010 Definitions states in part:

The following definitions are applicable to all sections of Chapter 59G, F.A.C., unless specifically stated otherwise in one of those sections. These definitions do not apply to any Agency for Health Care Administration (Agency), Medicaid program rules other than those in Chapter 59G, F.A.C.:

(72) "Durable medical equipment (DME)" means medical equipment that can withstand repeated use; is primarily and customarily used to serve a medical purpose; is generally not useful in the absence of illness or injury; and is appropriate for use in the patient's home. ...

(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; 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.

59G-4.070 Durable Medical Equipment and Medical Supplies states in part:

(1) This rule applies to all durable medical equipment and supply providers enrolled in the Medicaid program.

(2) All durable medical equipment and medical supply providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2008, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's Web Portal at http://my medicaid-florida.com.

Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook Agency for Health Care Administration, July 2008 states in part:

Custom Cranial Remolding Orthosis

Description-A custom cranial remolding orthosis is a non-invasive device used to correct the symmetry of an infant's skull.

Eligibility and Reimbursement Requirements-Custom cranial remolding orthoses require prior authorization (PA). PA requests must be submitted using the appropriate DME procedure code, to ensure proper routing for physician review. Custom cranial remolding orthotic devices are covered by Medicaid when it is determined medically necessary to correct a moderate to severe craniofacial deformity. Supporting documentation, at a minimum, must include:

• A prescription from an orthopedic or craniofacial surgeon; and

• Clinical evidence, including measurements, indicating the infant's current cranial index of symmetry (CIS) is <83; and

• Current color photographs of the infant's head, taken from the following views:

□ Superior;

□ Frontal;

□ Posterior;

□ Right and left lateral; and

• A statement from a treating orthopedic or craniofacial surgeon, stating that treatment using a cranial remolding orthosis is recommended due to poor improvement in the infant's CIS, after a documented six (6) months trial period of active counter positioning has been completed; and

• Six (6) month's worth of documentation regarding daily counter positioning therapy.

The petitioner's mother states that her son needs the treatment, as his head is deformed. She states that she was not informed on what was required and was told that she must go through the provider. The petitioner will gather required documentation and resubmit it to the agency.

The agency representative stated that the mother can submit a new request with the current information, but that he would assist her with it since time is of the essence because of the petitioner's age.

As the Findings of Fact shows, the petitioner's cranial index of symmetry was 87.6 and the CIS requirement for reimbursement is <83. Therefore, the petitioner did not meet the requirements of the medical necessity criteria.

DECISION

The appeal is denied as stated in the Conclusions of Law.

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 11th day of September, 2009,

in Tallahassee, Florida.

A. G. Littman

A. G. Littman
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
850-488-1429

Copies Furnished To: