



FILED

Apr 11, 2024, 11:42 am

OFFICE OF FAIR HEARINGS

**STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
OFFICE OF FAIR HEARINGS**

[REDACTED],

PETITIONER,

AHCA Case No.: 23-FH3215

vs.

**AGENCY FOR HEALTH CARE
ADMINISTRATION,**

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on February 1, 2024, at 1:00 p.m. Eastern Standard Time ("EST").

APPEARANCES

For the Petitioner: [REDACTED]
Petitioner's Authorized Representative

For the Respondent: Doris Rivera
Medical/Health Care Program Analyst
Agency for Health Care Administration

STATEMENT OF ISSUE

The issue is whether Petitioner proved by a preponderance of the evidence that the Respondent's denial of Petitioner's request for Direct Reimbursement was incorrect.

PRELIMINARY STATEMENT

All parties appeared telephonically. Petitioner's mother and Authorized Representative,

[REDACTED] (" [REDACTED] "), appeared on behalf of Petitioner. Petitioner's [REDACTED], [REDACTED]

[REDACTED] (" [REDACTED] "), appeared at the Fair Hearing as a witness for Petitioner.

Doris Rivera (“Ms. Rivera”), Medical/Health Care Program Analyst with the Agency for Health Care Administration (“Agency” or “AHCA”), appeared on behalf of the Respondent.

Prior to the hearing, the Petitioner sent to the Office of Fair Hearings and Respondent an eight (8)-page packet that was admitted into evidence without objection. The eight (8)-page evidence packet is identified as “Petitioner’s Composite Exhibit 1” and is maintained in the Office of Fair Hearings’ document management system as “23-FH3215 Submission of Petitioner’s Exhibits.pdf”.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a fifteen (15)-page evidence packet that is identified herein as “Respondent’s Composite Exhibit 1” and is maintained in the Office of Fair Hearings’ document management system as “AHCA Evidence.pdf”.

On February 5, 2024, four days after the Fair Hearing, Petitioner submitted a Motion alleging that the instant case is identical to AHCA Case No. 24-FH0100, which involves a different recipient and was assigned to a different hearing officer. Petitioner’s Motion requests that the undersigned apply the same judgement “summarily” for both cases. Petitioner’s Motion is DENIED pursuant to Rule 59G-1.100(11), Florida Administrative Code, which only allows the consolidation of Fair Hearing requests involving the same recipient.

FINDINGS OF FACT

1. As of September 25, 2023, Petitioner is an enrolled member of Liberty dental plan. See Respondent’s Composite Exhibit 1, page 5. Liberty is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.
2. On August 13, 2023, Petitioner received the following dental services from Pediatric

Dental Group: code D1351- Sealant Th: 14, code D1351 – Sealant Th: 19, and code D2948 – non-intravenous conscious sedation. See Petitioner’s Composite Exhibit 1, page 5. The total cost of the dental services was \$385.00. *Id.* [REDACTED] paid out of pocket for the dental services plus a previous balance of \$14.40. *Id.* at 9. The total amount paid by [REDACTED] was [REDACTED] *Id.* at 4, 9.

3. On October 11, 2024, Petitioner sent to AHCA an email seeking reimbursement from AHCA in the amount of [REDACTED]. The email states, “[t]he reimbursement . . . for [Petitioner’s name] is [REDACTED]. Please send the reimbursement to [REDACTED] [REDACTED] provided we are eligible.” Among the attachments to the email was a Florida Medicaid Direct Reimbursement Recipient Information Request form (“Recipient Information Request form”), signed and dated October 11, 2023. See Respondent’s Composite Exhibit, Pages 10-11. The Recipient Information Request form included a signed statement from Petitioner confirming that the “bills(s) were not paid, or could not have been paid, by any other medical insurance.” *Id.* Petitioner’s email did not include proof from the Department of Children and Families (“DCF”) that Petitioner’s Medicaid application was denied, or benefits were closed, in error and the DCF Florida Medicaid approval notice correcting the error as required by the form. Instead, Petitioner wrote “Retroactive Claim” on the form. *Id.* at 14.

4. On November 6, 2023, the Agency issued a Medicaid Direct Reimbursement Notice of Disposition (“Notice”) denying Petitioner’s request for direct reimbursement. See Respondent’s Composite Exhibit 1, page 15. The Agency denied Petitioner’s request on the basis that Petitioner is not eligible for a reimbursement because the Petitioner did not submit proof of an erroneous determination of eligibility for Medicaid services.” *Id.*

5. On December 27, 2023, Petitioner requested a Fair Hearing regarding the denial of Petitioner's Direct Reimbursement request. On January 8, 2024, the undersigned issued an Order Scheduling Fair Hearing and Prehearing Instructions setting the hearing for January 30, 2024, at 10:00 a.m. By agreement by the Parties, the hearing in this matter was reset for the following day, February 1, 2024, at 1:00 p.m., due to a technological failure in the hearing recording technology.

6. Ms. Rivera is a Medical/Health Care Program Analyst with the Agency. Ms. Rivera testified that the Petitioner was not an eligible member of the Florida Medicaid program on the date of the dental services for which the Petitioner is seeking reimbursement. Ms. Rivera testified that while the applicable rules provide that the Florida Department of Children and Families may retroactively determine an individual was eligible for Medicaid, there are no rules, regulations, or laws of Florida that allow for the retroactive reimbursement of services that were rendered before a recipient became eligible for Medicaid.

7. [REDACTED] and [REDACTED] both testified that they are seeking the retroactive reimbursement for dental services that were rendered before the Petitioner was determined an eligible beneficiary for the Florida Medicaid Program, and they believe that they are entitled to such a reimbursement. [REDACTED] testimony is consistent with an email from [REDACTED], dated January 29, 2024, which states in pertinent part:

Our case is the circumstance for asking reimbursement was:

- Not because of any error.
- We just applied for reimbursement AFTER Medicaid eligibility notification came to us.
- We understood Medicaid rules to allow for such a retroactive claim. We marked the attachment as RETROACTIVE on #1 since there is no need to find some document of proof of error.

See Petitioner’s Composite Exhibit 1, page 1.

CONCLUSIONS OF LAW

8. The Agency’s Office of Fair Hearings has jurisdiction over the subject matter of this proceeding and the parties pursuant to section 409.285(2) of the Florida Statutes (2019). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

9. This hearing was held as a de novo proceeding pursuant to Florida Administrative Code (“Fla. Admin. Code R.”) 59G- 1.100(17)(b).

10. Because Petitioner is requesting a direct reimbursement, Fla. Admin. Code R. 59G- 1.100(17)(g) assigns the burden of proof to 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.).

11. In the State of Florida, the circumstances and process by which AHCA may directly reimburse Florida Medicaid recipients is governed by Fla. Admin. Code R. 59G-5.100, which provides as follows:

59G-5.110 Direct Reimbursement to Recipients.

(1) Purpose. This rule describes the circumstances when the Agency for Health Care Administration (AHCA) may directly reimburse eligible Florida Medicaid recipients; how AHCA reimburses recipients; and documentation requirements for direct reimbursement.

(2) Determination Criteria. Florida Medicaid recipients may be eligible for direct reimbursement if:

(a) **Medical goods and services were paid for by the recipient or a person legally responsible for their bills from the date of an erroneous denial or termination of Florida Medicaid eligibility to the date of a reversal of the unfavorable eligibility determination.**

(b) The goods and services were medically necessary as defined in Rule 59G-1.010, Florida Administrative Code (F.A.C.); rendered by a provider that is qualified to perform the service including meeting any applicable certification or licensure requirements (the provider is not required to be enrolled or registered as a Florida Medicaid provider); and covered by Florida Medicaid for the recipient’s eligibility

group on the date of service.

(c) Reimbursement for the medical goods or services is not available through any third-party payer on the date of service for which direct reimbursement is requested.

(3) Reimbursement Process. Recipients must submit direct reimbursement requests to AHCA within 12 months of the date of the reversal of the unfavorable eligibility determination described in paragraph (2)(a).

(a) The reimbursement request must include evidence of all out-of-pocket expenses paid to the provider, validated through receipts submitted by the recipient to: Agency for Health Care Administration, 2727 Mahan Drive, MS #58, Tallahassee, FL 32308.

(b) The Agency for Health Care Administration will send a Florida Medicaid Direct Reimbursement Recipient Information Request, AHCA Form 5240-0002, June 2016, incorporated by reference and available on the AHCA website at <http://ahca.myflorida.com/Medicaid/review/index.shtml>, or at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06750>, to recipients if more information is required to determine their eligibility for direct reimbursement. Recipients must complete and return the signed form in accordance with the instructions provided on the form.

(c) The Agency for Health Care Administration will send a Florida Medicaid Direct Reimbursement Provider Information Request, AHCA Form 5240-0003, June 2016, incorporated by reference and available on the AHCA website at <http://ahca.myflorida.com/Medicaid/review/index.shtml>, or at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06750>, if more information is needed from the provider to determine recipient eligibility for direct reimbursement. Providers must complete and return the signed form in accordance with the instructions provided on the form.

(4) Recipient Notification. The Agency for Health Care Administration will send reimbursement directly to the recipient in the amount the recipient paid to the provider. If AHCA determines that the expenses do not qualify for reimbursement, the recipient will be notified in writing after all information has been reviewed.

(5) Fair Hearing. The recipient has the right to request a Medicaid fair hearing if notified that reimbursement in full or in part is not approved. A request for a fair hearing must be made within 90 days from the date the notification is mailed to the recipient. The fair hearing may be requested by calling the Medicaid Helpline at 1(877)254-1055 or by contacting the Department of Children and Families Office of Appeal Hearings at appeal.hearings@myflfamilies.com.

Respondent's Composite Exhibit 1, page 3.

12. In this case, the Petitioner requested direct reimbursement for dental services provided on August 13, 2024. *See supra* ¶ 2. Petitioner became enrolled in Medicaid as of September 25,

2024. See supra ¶ 1. Therefore, the dental services for which direct reimbursement is sought were provided before Petitioner was enrolled in Medicaid.

13. Pursuant to Fla. Admin. Code R. 59G-5.100, Florida Medicaid recipients may be eligible for direct reimbursement in a limited set of circumstances, which include when there is an erroneous denial or termination of Florida Medicaid eligibility. In that circumstance, medical goods and services that were paid for by the recipient, or a person legally responsible for their bills, are reimbursable from the date of an erroneous denial or termination of Florida Medicaid eligibility to the date of a reversal of the unfavorable eligibility determination.

14. The undersigned finds that Respondent's denial of Petitioner's direct reimbursement request was warranted under the circumstances of this case. Here the record establishes that the dental services were provided before Petitioner was enrolled in Medicaid. As Petitioner's documents and the witnesses established, Petitioner was not erroneously denied Florida Medicaid eligibility nor was [REDACTED] eligibility erroneously terminated. See supra ¶ 6, 7. Petitioner did not submit any documentation from DCF demonstrating that Petitioner's Medicaid application was denied, or benefits were closed, in error and the DCF Florida Medicaid approval notice correcting the error as required by the form. See supra ¶ 3. As such, Petitioner failed to comply with the requirements of Fla. Admin. Code R. 59G-5.110(2)(a). Accordingly, Respondent's denial of Petitioner's direct reimbursement request was appropriate.

15. Based on the above, the undersigned concludes that Petitioner did not prove by a preponderance of the evidence that Respondent's denial of Petitioner's direct reimbursement request was incorrect.

IT IS HEREBY ORDERED AND ADJUDGED THAT:

Respondent's denial of Petitioner's request for direct reimbursement is **AFFIRMED**.

Petitioner's appeal based on Respondent's denial is **DENIED**.

DONE and ORDERED, this 11th day of April 2024, in Tallahassee, Leon County, Florida.

Alan J. Leifer
Alan J. Leifer
24-FH3215
2024.04.11 09:33:18
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ALAN LEIFER, Hearing Officer
Agency for Health Care Administration
Office of Fair Hearings
2727 Mahan Drive, Mail Stop # 11
Tallahassee, FL 32308-5407

NOTICE OF A RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY, ALONG WITH THE FILING FEE PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

Copies Furnished To:

[REDACTED]
[REDACTED]

AHCA Medicaid Hearing Unit
MedicaidHearingUnit@ahca.myflorida.com