

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of)	
)	OAH No. 15-0185-MDX
D F)	Agency No.
_____)	

DECISION

I. Introduction

D F is a Medicaid recipient. Mr. F’s physician requested that the Medicaid program provide him with the prescription drug “Harvoni.” The Division of Health Care Services (Division) denied the request on January 13, 2015. Mr. F requested a hearing on February 10, 2015.

Mr. F’s hearing commenced on March 10, 2014 but was continued to April 14, 2015. Mr. F represented himself and testified on his behalf. Angela Ybarra, a Medical Assistance Administrator with the Division, represented the Division. Erin Narus, a licensed pharmacist employed by the Division, testified on the Division’s behalf. All parties appeared telephonically.

The evidence shows that Mr. F’s medical condition is not sufficiently severe to qualify for Harvoni, as per established Division guidelines. The Division’s decision denying prior authorization is affirmed.

II. Facts

The following facts were established by a preponderance of the evidence.

Mr. F has been diagnosed with Hepatitis C.¹ He does not have cirrhosis or fibrosis.² Mr. F’s physician prescribed Harvoni to treat Mr. F’s Hepatitis C.³ Harvoni is a drug which requires prior authorization from the Division before Medicaid will pay for it.⁴ On January 12, 2015, Mr. F’s physician requested that the Medicaid program approve coverage (“prior authorization”) for Harvoni for Mr. F.⁵

¹ Ex. L, at p. 2.
² See Ex. C, at p. 2; see also Ex. L, at p. 2.
³ Ex. D, at p. 1.
⁴ Ex. I, at p. 2; Testimony of Ms. Narus.
⁵ Ex. L, at p. 2.

The Division denied Mr. F's prior authorization request for Harvoni on January 13, 2015.⁶ The basis for that denial was that not enough information was provided to determine the medical necessity for Harvoni.⁷

At the time Mr. F's physician requested prior authorization for Harvoni on January 12, 2015, the Division's drug utilization committee had established guidelines that required, in part, that a person have either cirrhosis or bridging fibrosis before the Division would authorize a number of medications (Sovaldi, Olysio, or Harvoni) for treatment of Hepatitis C.⁸ On January 16, 2015, several days after Mr. F's prior authorization request was denied, the Division adopted new guidelines that would authorize a drug named VieKira as the first line treatment for treatment of Hepatitis C, without requiring cirrhosis or fibrosis.⁹ However, before Harvoni would be approved, while cirrhosis was no longer required, there needed to be a Child-Pugh score of B or greater.¹⁰

The Division sent out a fax on February 17, 2015 to Mr. F's physician notifying him of the new guidelines and asking that either a new request be submitted for the first line therapy (VieKira) or that an explanation be given as to why his patient would not be a candidate for the first line therapy.¹¹ The office of Mr. F's physician responded by making a phone call on March 16, 2015, again asking for coverage for Harvoni.¹² However, no additional documentation or information was provided.¹³ However, this request did not include any of the additional information that was needed to approve Harvoni over VieKira, so a second denial letter dated March 18, 2015 was issued.¹⁴

At the time of the first hearing on March 10, 2015, the parties agreed on the record that the hearing would be continued to enable Mr. F to discuss the matter with his physician in light of the Division's new guidelines. However, Mr. F's physician did not submit any new information to the Division by the time of the continued hearing.¹⁵

⁶ Ex. D, at p. 1.

⁷ Ex. D, at p. 1.

⁸ Ex. I, p. 1; *see also* Testimony of Ms. Narus.

⁹ *See* Ex. H.

¹⁰ Ex. H, at p. 3.

¹¹ Testimony of Ms. Narus.

¹² Testimony of Ms. Narus.

¹³ Testimony of Ms. Narus.

¹⁴ Testimony of Ms. Narus. This appeal, however, only relates to the first denial letter dated January 12, 2015.

¹⁵ Testimony of Ms. Narus.

III. Discussion

The Alaska Medicaid program has a number of medications which require prior authorization.¹⁶ In determining whether to grant prior authorization for a medication (or any service), regulation 7 AAC 105.130 states the “factors that the department will consider include the service’s medical necessity, clinical effectiveness, cost-effectiveness, and likelihood of adverse effects”

Harvoni is one of the medications which require prior authorization before the Medicaid program will pay for it.¹⁷ The Division has adopted clear clinical guidelines which must be met before prior authorization is granted for Harvoni.¹⁸ Mr. F does not have cirrhosis or fibrosis.¹⁹ There is no evidence showing that he has a Child-Pugh score of B or higher. His Hepatitis C is undisputedly not at a stage where it is severe enough to satisfy the clinical guidelines necessary for prior authorization for Harvoni, either those guidelines which were in effect on January 13, 2015, or the more flexible guidelines adopted on January 16, 2015.²⁰ While Harvoni²¹ may be Mr. F’s physician’s treatment of choice, given these facts, the Division was correct to deny prior authorization for Harvoni.

IV. Conclusion

The Division’s decision to deny Mr. F’s prior authorization request for Harvoni is affirmed.

DATED this 24th day of April, 2015.

Signed

Kathleen A. Frederick
Administrative Law Judge

¹⁶ 7 AAC 105.130(a)(13); 7 AAC 120.130(a)(1).

¹⁷ See Ex. H, at p. 3; see also Ex. I, at p. 1.

¹⁸ See Ex. H, at p. 3; see also Ex. I, at p. 1.

¹⁹ See Ex. C, at p. 1; see also Ex. L, at p. 2.

²⁰ Testimony of Ms. Narus.

²¹ Testimony of Mr. F.

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 13th day of May, 2015.

By: Signed _____
Name: Lawrence A. Pederson
Title: Administrative Law Judge/OAH

[This document has been modified to conform to the technical standards for publication.]