

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

In the Matter of:)
)
 T N) OAH No. 12-1022-MDS
) HCS Case No.
)
_____)

DECISION

I. Introduction

The issue in this case is whether the Division of Health Care Services (Division) was correct to deny T N’ request for prior authorization of certain Medicaid-funded travel. The Division denied Ms. N’ request for prior authorization on the basis that the medical clinic to which Ms. N sought to travel is not enrolled with Alaska’s Medicaid program. The pertinent regulation prohibits Medicaid payment for travel to medical providers not enrolled with Alaska Medicaid. Documentation provided by the Division at hearing proved, by a preponderance of the evidence, that the clinic at issue is not enrolled with Alaska’s Medicaid program. The Division was therefore correct to deny Ms. N’ request for prior authorization for the medical travel at issue.

II. Facts

A. Ms. N’ Medical Condition

The relevant facts in this case are not in dispute. Ms. N is 65 years old.¹ She was hit by a truck on July 28, 2011.² As a result of this accident she has constant pain in her left shoulder and arm, which are essentially non-functional.³ In February 2012 Ms. N underwent two surgeries to repair her left shoulder and arm, but the surgeries were unsuccessful.⁴ One of Ms. N’ physicians has stated that, because of the unique combination of injuries to Ms. N’ arm and shoulder, very few medical clinics in the country have the expertise necessary to address both problems at once.⁵ Ms. N’ neurologist has stated that the surgery needed by Ms. N is not available in Alaska or Washington, but that the Mayo Clinic has a team of specialists who are able to perform surgery of

¹ Ex. F2.

² Ex. H.

³ Ex. H. The medical terms for the injuries to Ms. N’ left shoulder and arm are "left shoulder brachio-plexus injury with dislocated total shoulder arthroplasty." Ex. F3.

⁴ Ex. H.

⁵ Ex. F8.

the type required.⁶ As a result, Ms. N' physicians recommended that she undergo additional surgery at the Mayo Clinic.⁷ Ms. N and her physicians scheduled appointments at the Mayo Clinic for January 2-3, 2013.⁸

B. Relevant Procedural History

On December 7, 2012 Ms. N' physicians faxed a request for prior authorization to Xerox State Healthcare, LLC (Xerox).⁹ The request sought approval for travel by Ms. N and her personal care assistant (PCA) from Anchorage to the Mayo Clinic in Rochester, Minnesota and back.¹⁰ The request contained the medical information set forth above as justification.¹¹ On December 14, 2012 Xerox notified Ms. N that it had denied her prior authorization request.¹² The denial letter¹³ stated in relevant part as follows:

The request to travel to the Mayo Clinic in Minnesota is denied. The receiving provider is not enrolled with State of Alaska Medicaid. State of Alaska Medicaid does not pay for travel to providers who are not enrolled in the Medicaid program. 7 AAC 120.405(c)(4). The requested treatment for dislocated shoulder / brachial plexus injury is available within the State of Alaska and/or recipient's community of residence. 7 AAC 105.120; 7 AAC 120.405(b).

Ms. N requested a hearing to contest the Division's decision.¹⁴ Ms. N' hearing was held on January 15, 2013. Ms. N attended the hearing and represented herself. Gerry Johnson attended the hearing and represented the Division. The record closed at the end of the hearing.

III. Discussion

In its denial notice dated December 14, 2012 the Division's contractor asserted both that the Mayo Clinic is not enrolled as a provider with Alaska Medicaid, and that the medical services required by Ms. N are available within Alaska. At hearing, the Division dropped the second argument and relied solely on the argument that the Mayo Clinic is not enrolled as a provider with Alaska Medicaid. For this reason, only the "enrolled provider" argument need be addressed in this decision.

⁶ Ex. G.

⁷ Exs. F3, F5, F8, H.

⁸ Ex. F1.

⁹ Ex. F. Xerox reviews requests for prior authorization under a contract with the Department of Health and Social Services (DHSS) (Ex. D1).

¹⁰ Exs. F1, F4.

¹¹ Ex. F.

¹² Ex. D.

¹³ Ex. D1.

¹⁴ Ex. C.

The Alaska state Medicaid regulations governing medical transportation and accommodation services are located primarily at 7 AAC 120.400 - 7 AAC 120.490. Of these, only one regulation is directly applicable to this case. 7 AAC 120.405(c) provides in relevant part that "[t]he department will not pay for . . . (4) transportation for a recipient or an authorized escort to travel to a health care provider or Medicaid service provider that is not enrolled as a Medicaid provider by the department at the time the travel occurs"

The Division provided documentation indicating that the Mayo Clinic is not enrolled as a Medicaid provider with the Department of Health and Social Services (DHSS).¹⁵ Ms. N did not dispute this. Instead, she focused her arguments on countering the Division's assertion (which the Division abandoned at hearing) that the surgery she needs is available in Alaska.

Under the Division's regulations, the "treatment not available in Alaska" and the "not an enrolled Medicaid provider" arguments are *independent alternative bases* for denying a request for prior authorization.¹⁶ So, even if Ms. N prevailed on the "treatment not available in Alaska" argument, the Division was still correct to deny Ms. N' request for prior authorization based on the undisputed fact that the Mayo Clinic is not enrolled with DHSS as a Medicaid service provider.

IV. Conclusion

The Division did not dispute that Ms. N needs the medical services she seeks. However, the Division's regulations prohibit Medicaid payment for travel to medical service providers not enrolled with Alaska Medicaid. It is undisputed that the Mayo Clinic is not enrolled with DHSS as a Medicaid service provider. The Division was thus correct to deny Ms. N' request for prior authorization of the travel at issue, and the Division's decision is affirmed.

Dated this 11th day of February, 2013.

Signed

Jay Durych

Administrative Law Judge

¹⁵ Exs. E2, E3, E4.

¹⁶ See 7 AAC 120.405(b) and 7 AAC 120.405(c)(4).

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 4th day of March, 2013.

By: *Signed*
Name: Jared C. Kosin, J.D., M.B.A.
Title: Executive Director
Agency: Office of Rate Review, DHSS

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