

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

In the Matter of )  
 )  
 U S )  
\_\_\_\_\_ )

OAH No. 14-0029-MDS  
Agency No.

**DECISION**

**I. Introduction**

U S is eligible for, and receives Medicaid benefits to pay for, her medically necessary health care. She requested pre-authorization to travel from No Name to Seattle for evaluation and possible surgery. The Division of Health Care Services (division) denied her request, and Ms. S contested the denial.<sup>1</sup>

A hearing was held on January 29, 2014. Ms. S represented herself. The division's position was presented by its lay advocate, Angela Ybarra. The record was left open after the hearing for Ms. S to submit additional documentation. No additional documents were received. Because the surgery is available in Anchorage, the division correctly denied Ms. S's travel authorization request.

**II. Facts**

Ms. S has spondylosis,<sup>2</sup> causing chronic cervical pain. She also has decreased sensation in her left arm.<sup>3</sup> Her physician referred her to a doctor in Seattle for surgery. The division's contractor, Xerox State Healthcare, LLC, denied travel authorization because treatment was available in Anchorage.<sup>4</sup>

Ms. S's physician had first referred Ms. S to two physicians in Anchorage who could perform the surgery.<sup>5</sup> One refused to treat Ms. S because of a prior dispute. The other, Dr. Peterson, would not commit to the surgery without conducting additional testing.<sup>6</sup> Ms. S believes she has tried all reasonable non-surgical treatment options without success, and

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<sup>1</sup> Her request for a hearing on this issue is not in the record, but is referred to in a hearing request as to other disputes. Exhibit C. Those other disputes are not considered in this hearing since they were not part of the referral to the Office of Administrative Hearings.

<sup>2</sup> A degenerative disease of the spinal column. *Steadman's Medical Dictionary* (Houghton Mifflin Company 2002) page 780.

<sup>3</sup> Exhibit D3.

<sup>4</sup> Exhibit D1.

<sup>5</sup> Exhibit D3.

<sup>6</sup> Exhibit D3, Testimony of Ms. S.

wants to have the surgical repair.<sup>7</sup> She asserts that it is unreasonable to deny her authorization since no Alaska doctor is willing to perform the necessary surgery.

### **III. Discussion**

The division will authorize payment for transportation and accommodation necessary to receive medically necessary services when those services are not available in the recipient's community.<sup>8</sup> In addition, with exceptions that are not relevant here, the division will not pay for services outside of Alaska when those services are available in Alaska.<sup>9</sup>

Ms. S believes that continued delays for more testing would be detrimental to her condition. Certainly, she will continue to suffer pain from her spondylosis until an effective treatment is found. However, even if travel to Seattle were authorized, there is no guarantee that the Seattle physician would perform surgery. That physician would also need to examine Ms. S, and upon examination, possibly conduct additional testing.

While Ms. S believes no further testing is necessary, Dr. Peterson apparently disagrees. It is the role of the physician to determine whether surgery is medically appropriate, and Dr. Peterson needs to conduct additional testing to make that decision. If he agrees that surgery is necessary, there is no dispute that he would be willing and able to perform the surgery. Accordingly, the medical treatment that Ms. S is seeking is available in Anchorage.<sup>10</sup> Therefore, the division may not pre-authorize an out-of-state physician to provide that treatment, and Xerox correctly denied Ms. S's request to travel out-of-state to receive treatment that would not be covered by Medicaid.

### **IV. Conclusion**

The division correctly denied Ms. S's travel authorization request because the treatment she seeks is available in Anchorage.

DATED this 11<sup>th</sup> day of March, 2014.

*Signed*

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Rebecca L. Pauli  
Administrative Law Judge

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<sup>7</sup> Testimony of Ms. S.

<sup>8</sup> 7 AAC 120.405(b).

<sup>9</sup> 7 AAC 105.120(a).

<sup>10</sup> Ms. S does not object to having him perform the surgery; instead she wants him to commit to surgery without additional testing.

## 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 20<sup>th</sup> day of March, 2014.

By: Signed \_\_\_\_\_  
Name: Rebecca L. Pauli  
Title: Administrative Law Judge

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