

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

In the Matter of)	
)	
W C)	OAH No. 17-1224-MDX
_____)	Agency No.

DECISION

I. Introduction

W C’s medical provider submitted a travel preauthorization request for her to travel to No Name City A for a sleep study consultation. The Department of Health and Social Services, Division of Health Care Services (Division) denied the request, based on its conclusion that such a consultation was not medically necessary. Ms. C requested a fair hearing to contest the denial.

A hearing was held on January 17, 2018. Ms. C represented herself and testified on her own behalf. The Division was represented by Laura Baldwin. The Division’s medical assistance administrator and travel manager Maria Pokorny testified on behalf of the Division. Because Ms. C did not establish that the denial of travel authorization was incorrect, the Division’s denial is affirmed.

II. Facts

W C is a Medicaid recipient, and as such she is eligible for and receives Medicaid benefits for her health care. On October 25, 2017, Ms. C’s medical care provider submitted a request for pre-authorization for round-trip travel for Ms. C between the No Name City B and No Name City A, in order for her to have a consultation related to a future sleep study. The requested travel and accommodations were to take place on November 1 through November 3, 2017, with the medical consult appointment itself scheduled for the morning of November 2, 2017.¹ The Division’s contractor, Conduent State Healthcare, LLC, determined that the travel request should be denied because medical justification sufficient to allow approval of the request had not been provided.

Ms. Pokorny testified on behalf of the Division that the medical provider at the No Name City B clinic submitted the authorization request for Ms. C via a telephone call to Conduent. During that telephone call, however, the medical provider did not submit sufficient

¹ See Exh. F, pp. 1-4 (a computerized “service authorization” form that is filled out by Conduent staff when responding to a travel authorization request). See also Exh. E, p. 1 (an internal Conduent document showing the denial).

documentation of medical justification for the travel, nor was it provided during subsequent contacts between Conduent staff and the medical provider.²

On the day the request was submitted, the Conduent worker “pended” the request for additional information from the medical provider. The decision to deny the request was made later, on November 1, 2017, after no additional information was received.³ A denial letter was sent to Ms. C on November 2, 2017, in which Conduent cited 7 AAC 120.405(a)(1) and explained that “a sleep study consultation can be performed telephonically or via Telemed,” and further that Medicaid will pay “for only those transportation and accommodation services that are provided to assist the member in receiving medically necessary services.”⁴

Ms. Pokorny explained in her testimony that, generally speaking, it is standard practice for Medicaid to not pay for travel for consultations or consults unless medical necessity is specifically demonstrated. Unless a medical emergency is presented, a showing of medical necessity is a prerequisite for travel authorizations. She further explained that, specifically relating to sleep studies, a consult can be done on the same day as the study itself; in that event, travel could be authorized for both services.⁵ The Division, however, does not view sleep consultations themselves as medically necessary. Ms. Pokorny stated that, notwithstanding the reference in the denial letter to telephonic or Telemed services, the denial decision here was based on there not being a showing that it was medically necessary for the sleep study and the consult to take place on different dates.⁶

In this case, Division staff later spoke with the No Name City A medical provider and were informed that that the provider’s office does not have Telemed capabilities.⁷ The medical provider also confirmed, however, that the consult could have been scheduled on the same day as the study.⁸ Ultimately, travel for the sleep study itself on November 20, 2017 was given prior authorization and was paid for by Medicaid.⁹

In her testimony, Ms. C stated that she requested this hearing primarily because the basis for the Division’s denial was never made clear to her; her goal was to gain a better understanding

² Pokorny testimony; *see* Exh. F, pp. 1-4

³ Pokorny testimony; Exh. F, pp. 3-4.

⁴ Exh. D.

⁵ Pokorny testimony. The sleep study provider did eventually write a letter on Ms. C’s behalf, but it did not address the key issue in this hearing, i.e., whether there was medical necessity for the consultation to take place separately from the sleep study itself. *See* Exh. F, p. 14.

⁶ *Id.*

⁷ Ms. Pokorny also acknowledged in her testimony that a telephonic sleep consult would not be feasible.

⁸ *Id.*

⁹ *Id.*

of why the Division denied the requested travel authorization. She also asserted that she did not receive notice of the denial until October 31 or November 1, 2017, within about 24 hours before her scheduled flight to No Name City A at about 3:00 p.m. on November 1, 2017. The late notice caused her to have to make last minute changes to her travel plans in order to get to her appointment, which she felt “was very important” for her health care.¹⁰ Ms. C confirmed, however, that she was aware of the denial of travel authorization with sufficient time before the scheduled flight to be able to arrange for a ticket using frequent flier miles, and that she could have changed her appointment for the sleep consultation to a later date.

III. Discussion

Ms. C, as the party requesting the hearing, bears the burden of proof to establish, by a preponderance of the evidence, that the Division’s denial of travel authorization was incorrect.¹¹ “Preponderance of the evidence” means that a fact is shown to be more likely true than not true.¹²

The Division’s denial determination in this case was based on 7 AAC 120.405(a)(1), which covers Medicaid “transportation and accommodation covered services.” The regulation provides that Medicaid “will pay a provider for only those transportation and accommodation services that are provided to assist the recipient in receiving medically necessary services.” The Division acknowledged at the hearing that the November 2, 2017 denial letter may have caused some confusion for Ms. C, because it referred to sleep consultations being performed telephonically or via Telemed conference, when in fact the No Name City A provider could not perform the consultation in that manner. The letter, however, also clearly stated that the travel authorization was denied due to a failure to show medical necessity.

Ms. C did not present any testimony or evidence that established that it was medically necessary for her to make a separate trip to No Name City A for her sleep consultation. She acknowledged that she was not facing a medical emergency, but she considered the appointment an urgent matter - the sleep study was a necessary part of her treatment for chronic fatigue, an issue she has been trying to address as part of her effort to obtain employment. While her rationale is compelling, it is insufficient to establish that the Division was incorrect in concluding that there was no medical necessity for the consultation to be scheduled separately from the sleep study itself.

¹⁰ C testimony.

¹¹ 7 AAC 49.135, applicable here, places the burden of proof on a party pursuing a claim for “new or additional benefits,” and places the burden on the Division where it is seeking to reduce or terminate benefits.

¹² 2 AAC 64.290(e).

It is unfortunate that Ms. C did not receive notice of the denial until the last day before she was scheduled to fly to No Name City A. In this context, it appears that communication between her medical providers and Conduent was not ideal. It is also noted, however, that the travel authorization request was not submitted until only about a week before the scheduled appointment – this relatively short timeframe may have contributed to the late notice.¹³

Ms. C argues that a provision of the Division’s regulations, 7 AAC 120.405(c)(6), allows for payment of travel expenses in cases of “undue hardship.” The cited provision, however, does not apply here, as it pertains only to travel within the recipient’s community. She also argues that her appeal is supported by 7 AAC 120.405(b)(3), which provides for payment for transportation when “the recipient is an American Indian or Alaska Native who has requested services from a tribal health program outside the recipient’s community of residence.” This provision, however, assumes that the requested services are medically necessary, so it is of no help to Ms. C’s appeal.¹⁴

Ms. C pointed out the confusing language of the denial letter, the poor communication between the medical providers in No Name City B and No Name City A and Conduent, the relatively late notice of the denial, and the fact that she survives primarily on Social Security benefits; based on all these factor, she argued that she should not be the one to bear the financial burden of this situation. Within this context, however, it must be noted that Ms. C made the choice to obtain a ticket, get on the airplane, and book a hotel room, knowing that Medicaid authorization had been denied. Under these circumstances, Ms. C’s argument is insufficient to meet her burden of establishing that the Division’s decision to deny her travel authorization request was erroneous.

IV. Conclusion

The Division’s denial of Ms. C’s requested travel authorization for the November 2, 2017 sleep consultation is affirmed.

DATED: March 8, 2018.

By: Signed
Andrew M. Lebo
Administrative Law Judge

¹³ It is also possible that the medical providers may have contributed to the problem by not communicating in a more timely manner with Conduent – the record is devoid of any evidence that the providers submitted any information in support of medical necessity after Conduent pended the request, until after the appeal was submitted.

¹⁴ Ms. C also pointed out that she is only seeking reimbursement for her out-of-pocket hotel expenses, and not for her plane ticket purchased with frequent flier miles. Absent a showing of medical necessity, however, the Division has no authority to make any reimbursement payment.

Adoption

The undersigned, by delegation from 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 19th day of March, 2018.

By: Signed _____
Name: Christopher Kennedy
Title: Administrative Law Judge

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