

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

In the Matter of)
)
E D) OAH No. 20-0788-MDX
) Agency No.
_____)

DECISION

I. Introduction

E D requested Medicaid reimbursement for photochromatic progressive lenses. The Division of Health Care Services (Division) denied the request and Dr. D requested an administrative hearing to contest the denial.¹

Because Ms. D did not establish that the denial of her request was in error, the Division’s denial is affirmed.

II. Facts

Dr. D is an eligible recipient of Medicaid benefits for her health care. On June 24, 2020 her eye care provider, the Business A, Inc., submitted a request for tinted progressive lenses.

There were no disputed facts at the hearing. Dr. D has cone dystrophy, making her photophobic, or more sensitive to light, and has general vision deterioration. The combination of the two conditions implicates a need for photochromatic progressive lenses, which address both issues. The Division denied her request as 1. nothing was submitted from her medical provider establishing that photochromatic lenses were medically necessary and 2. progressive lenses are not allowed under the regulations that apply to the Medicaid program. Dr. D appealed.

III. Procedural History

A hearing was held over the course of two dates; November 4 and 24, 2020. Dr. D participated in the first hearing date and represented herself. However, although the second date was chosen by the mutual agreement of all the parties, she was not able to be reached at the time specified for the hearing and did not participate. On both occasions the Division was represented by Laura Baldwin, and Chief of Quality Jason Ball testified on behalf of the Division.

¹ Dr. D received an honorary doctorate in experimental jet aviation mechanics and is addressed by her formal title throughout this decision.

III. Discussion

The issue before this tribunal is whether Dr. D's request for the Medicaid program to provide her with photochromatic progressive lenses was correctly denied. As the party requesting the hearing Dr. D bears the burden of proof to establish by a preponderance of the evidence that her request should have been approved.²

Dr. D asserts that due her heightened sensitivity to light she needs photochromatic lenses as they will automatically change tint depending on the lighting conditions. Due to her weakening vision she requests corrective lenses but asserts that due to her degenerative cone condition they must be progressive or no line lenses. Lenses with lines further compromise her vision. The Division denied the requests, asserting that Dr. D failed to establish a medical necessity for photochromatic lenses as required by the relevant Medicaid regulation. Additionally, regardless of medical necessity, progressive lenses are simply not covered by the Medicaid program.

Medicaid was established in 1965 to cover the basic healthcare needs of lower income individuals and families.³ It is a cooperative federal-state program that is jointly financed with federal and state funds.⁴ In Alaska, the Department of Health and Social Services administers the Medicaid program in accordance with applicable federal and state laws and regulations.

Medicaid covers a panoply of medical services including vision care, albeit with certain specified restrictions. Included in the noncovered services are tinted (photochromatic) lenses, unless established to be medically necessary for a recipient.⁵ Medical necessity can be demonstrated by meeting criteria set forth in the Medicaid regulations, or by showing the request conforms with standards of practice applicable to the prescribing provider.⁶ Dr. D did not provide the Division with any relevant information to confirm her need for photochromatic lenses, including verification from her provider that given her light sensitivity, photochromatic lenses are a medical necessity. Therefore, in the absence of the establishment of such a necessity, the Division appropriately denied Dr. D's request for photochromatic lenses.

² 2 AAC 64.290(e).

³ 42 USC § 1396 et. seq.

⁴ *Wilder v. Virginia Hospital Association*, 496 U.S. 498, 501, 110 S.Ct. 2510, 110 L.Ed.2d 455 (1990).

⁵ 7 AAC 110.715(a)(1).

⁶ 7 AAC 105.110 (2).

Also included in the noncovered services are progressive or no-line lenses.⁷ There is no exception for situations involving other eye conditions, including Dr. D's cone degeneration which she asserts makes it very difficult, if not impossible, to use lenses with lines. However, this tribunal is not at liberty to ignore the Division's regulations or interpret them differently for specific Medicaid recipients.⁸

IV. Conclusion

The Division's denial of Dr. D's request for photochromatic progressive lenses is affirmed. Insufficient information was provided to establish that photochromatic lenses are a medical necessity for Dr. D. Progressive lenses are not covered under the Medicaid regulations, without exception.

Dated: December 9, 2020

Signed

Danika B. Swanson
Administrative Law Judge

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 30th day of December, 2020.

By: *Signed*

Name: Jillian Gellings
Title: Project Analyst
Agency: Office of the Commissioner, DHSS

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

⁷ 7 AAC 110.715(a)(3).

⁸ "Administrative agencies are bound by their regulations just as the public is bound by them." *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).