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

In the Matter of	)	
	)	
L D	)	OAH No. 18-1185-MDX
	)	Agency No.

DECISION

I. Introduction

Medicaid recipient L D requested preauthorization approval for a pelvic magnetic resonance imaging (MRI) scan. After the Division of Health Care Services (Division) denied the request as not medically necessary, Ms. D requested an administrative hearing to challenge the denial.

Because Ms. D did not establish that the pelvic MRI was medically necessary under the Alaska Medicaid regulations, the Division's denial is affirmed.[1]

II. Facts[2]

L D is a thirty-three-year-old Medicaid recipient. In February 2018 she underwent a C-section, followed by a tubal ligation.[3] She recovered well and resumed a regular workout routine. Following a hike at a Lake, she experienced severe abdominal pain. She then developed lower back pain on the right side which radiates to her right lower quadrant and groin area, and down to her right calf area. Her body pain continues.

Ms. D has attempted to address the pain with various medications and physical therapy.[4] She has had ultrasounds and CT scans that have yielded no objective findings.[5] There is evidence in an x-ray of bilateral sacroiliitis"[6]

Qualis Health (Qualis) is a quality improvement organization. The Division contracts with Qualis to conduct preauthorization reviews of certain medical procedures. Qualis "provides evidence-based decisions about level of care and appropriateness of services."[7]

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1 Ms. D initially requested and appealed the denial of both a pelvic MRI and a lumbar spine MRI. At the hearing, Ms. D said she had already paid for her own lumbar MRI, so was only requesting the pelvic MRI. After clarifying her position on the record, the appeal for the lumbar MRI is dismissed. Accordingly, this decision addresses only the pelvic MRI request.

2 The facts are based on the evidence presented and testimony for Ms. D and Dr. Raman.

3 Exhibit F.

4 Exhibit F.

5 *Id*.

6 Exhibit F, p. 11.

7 Dr. Raman testimony.

On October 9, 2018, Qualis received an authorization request from Physician's Assistant (PA) U C, with City A Health Center. PA C requested authorization for Ms. D to have pelvic and lumber spine MRIs due to her diagnosis of "right lower quadrant pain."

Pursuant to its internal review procedures, on October 15, 2018, Qualis sent the request for a determination of the medical necessity of the pelvic MRI to a nurse for clinical review.[8] The nurse determined the MRI was not medically necessary. The reviewer documented the impressions: "CT Abdomen 05/26/2018 Impression: No acute CT abnormalities of the abdomen or pelvis. Fatty infiltration of the lever[sic] with mild enlargement."[9]

The matter was next submitted for a physician review on October 22, 2019. The doctor also concluded the MRI was not medically necessary.[10] The doctor's reasons for denying the pelvic MRI on October 24, 2018 were: "There are no documented adnexal masses on the provided US report, which require MRI pelvis for further characterization. There is no documented need to differentiate an ovarian mass from an exophytic or pedunculated fibroid. There is no documentation about needing this MRI to evaluating[sic] endometriosis seen on previous Pelvis US. There is no documented need for evaluating complication of inflammatory bowel disease. There are no documented pelvic floor disorders associated with urinary or bowel incontinence or need for evaluating pelvic venous thrombosis. There is no documented suspicion for sacroiliitis, with non-diagnostic plain radiographs, pelvic area osteomyelitis, hip osteonecrosis, pelvic injuries, sports hernia or other infections or inflammatory processes of the pelvic soft tissues. There is no documented suspicions for bladder or urethral diverticula. There is [sic] no documented contradictions for obtaining a CT scan of the pelvis."[11] [12]

On October 29, 2018, PA C and a Qualis doctor spoke for a thirty-minute "peer-to-peer" review.[13] The reviewer documented the following impressions at the conclusion of the review: "Given negative CT of pelvis and abdomen, normal pelvic exam by GYN and no neuro deficits on LE exam as well as short [trial] or PT, case does not meet ICQ for MRI of … pelvis."[14]

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8 Exhibit E, p. 1.
9 Exhibit E, p. 2.
10 Exhibit E, p. 3.
11 Id.
12 Dr. Raman identified a typographical error, consisting of a comma, on Exhibit E, p. 3, number 5 which causes a difference in the meaning of the sentence. Following "sacroiliitis" there should NOT be a comma. There *are* some findings of sacroiliitis inflammations of the sacroiliac joints.
13 Exhibit E, p. 5.
14 Exhibit E, p. 4.

At the conclusion of its three-level review process, Qualis concluded that the requested MRI did not meet the requirements of medical necessity.

A letter denying authorization was sent to Ms. D on November 2, 2018.[15] She requested a hearing.

The hearing on Ms. D's appeal was held on December 12, 2018. Ms. D testified on her own behalf and did not offer any other witnesses. The Division was represented by Laura Baldwin and presented the testimony of Qualis' assistant medical director, Dr. Erik Raman, a board-certified internist with more than twenty years of clinical work experience.[16] The hearing record closed at the end of the hearing.

III. Discussion

The Alaska Medicaid program requires prior authorization for various medical services, including, specifically, MRIs.[17] The regulations provide that preauthorization can only be approved if the procedure is medically necessary.[18]

The Federal Medicaid Act does not define medical necessity. Instead, it falls to each state to define medical necessity.[19] Alaska regulations and statutes do not specifically define when MRIs are considered medically necessary but broadly describes how medical necessity judgments are made. The pertinent portion of the applicable regulation, 7 AAC 105.110, provides that Medicaid:

> [W]ill not pay for a service that is (1) not reasonably necessary for the diagnosis and treatment of an illness or injury...as determined upon review by the department, or (2) not…medically necessary in accordance with criteria established under [Department regulations] or by standards of practice applicable to the prescribing provider.[20]

The Division and Qualis use the nationally recognized "InterQual criteria" as their standard practice for analyzing medical necessity issues based on objective findings.[21] This process consists of reviewing the request and looking at the record provided from a patient's history to determine if a certain procedure is needed.[22] As described by Dr. Raman, the multi-tiered process results in multiple medical professional reviewing the same record to determine if a

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15 Exhibit D.
16 Dr. Raman's testimony.
17 7 AAC 105.130 (10).
18 7 AAC 105.100 (5).
19 *See Thie v. Davis*, 688 N.E. 2d (Ind. App 1997).
20 7 AAC 105. 110 (1), (2).
21 Exhibit E.
22 Dr. Raman testimony.

procedure is needed. If that still doesn't result in an approval, they contact the treating physician for additional information to the record review; and if that is unsuccessful, there is a peer matched appeal review. [23]

As the person challenging the Division's preauthorization decision, Ms. D has the burden of proving that the Division erred in denying her preauthorization request.[24] She must show that the Division erred in its conclusion that, despite PA C's referral for an MRI, the MRI is not medically necessary.

Typically, more weight is given to a treating physician's opinion than those who do not treat a claimant.[25]

> Although the treating physician's opinion is given deference, … the ALJ need not accept the opinion of any physician, including a treating physician, if that opinion is brief, conclusory, and inadequately supported by clinical findings.[26]

Here, PA C's opinion "is brief, conclusory, and inadequately supported by clinical findings. While PA C made a referral for the MRI, the record lacks a basis for the referral. Nor did Ms. D call PA C as a witness to provide testimony supporting or explaining his referral. PA C, through statements in the peer-to-peer meeting or medical records, provided no explanation for the medical necessity of the MRI.

Ms. D attempted to demonstrate the need for the referral by describing the pain she is experiencing. But she did not provide evidence to support that the specific test of a pelvic MRI could diagnose or treat her pain.

In contrast, Dr. Raman's explanations of why a pelvic MRI could *not* diagnose or treat Ms. D's pain, and therefore was not medically necessary, is supported by objective testing from Ms. D's medical file.[27] At the hearing, Dr. Raman referenced Ms. D's records in explaining his conclusion that an MRI would not yield helpful information based on what was known about Ms. D at this time.

Dr. Raman testified he was aware of the medications and treatment Ms. D was receiving. Dr. Raman acknowledged the conservative treatment efforts of medication that Ms. D engaged.

Dr. Raman also empathized with her physical pain and her frustration at being unable to identify the cause of the pain, so it could be managed. However, he explained that an MRI is a

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23 Dr. Raman testimony.

24 *See, e.g., Matter of L.D.,* OAH 17-0072-MDX (Commissioner of Health and Social Services, May 2017).

25 Matter of *LD,* OAH No. 17-0072 MDX; *Lester v. Shaer*, 81 F.3d 821, 830 (9th Circ. 1996).

26 *Thomas v. Barnhart* 278 F.3d 947, 957 (9th Circ. 2002); *Morgan v Social Security Admin*. 169 F.3d at 600; *Matney v Sullivan* 981 F 2d 1016, 1019 (1992).

27 Exhibit E.

tool that is only useful when there are objective tests that evidence nerve root irritation. Further, Dr. Raman explained that while pain is a component of determining the usefulness of testing, objective testing is needed to determine if an MRI is going to reveal any information that will be useful.

Dr. Raman confirmed that Ms. D's x-rays showed findings of "inflammations of the, where the sacral meets the ilium," and the x-rays showed "[B]ilateral sacroiliitis, right greater than left." Further the findings from the x-rays were that there is "no abnormality of the hip joints. Irregularity along the inferior portions of both sacroiliac joints, with surrounding sclerosis, findings more prominent ton the right."[28] However, Dr. Raman explained that the inflammation at the sacroiliac joints is not an indication that an MRI is needed, without other abnormalities.[29] There has to be a correlation between the findings and the symptoms. Objective evidence is needed, in addition to sacroiliitis, for an MRI to be medically necessary.

In this case, Ms. D had, among other testing, a straight leg lift, testing for A-symmetrical weaknesses, and an ultra sound looking for masses or fibroid.[30] These tests were conducted to provide objective evidence of nerve root irritation. But in Ms. D's case, they yielded no objective findings of nerve root irritation Without these findings, according to Dr. Raman, a pelvic MRI is unlikely to provide useful information.

So, while PA C's opinion would normally be afforded deference, his referral for a pelvic MRI is inadequately supported by clinical findings to justify preauthorization for the MRI in this case. Neither the referral nor the accompanying records were sufficient to show the pelvic MRI could identify or treat Ms. D's pain. By contrast, Dr. Raman's conclusion that a pelvic MRI is not medically necessary is persuasive and supported by objective findings. Considering these factors, Ms. D did not meet her burden of showing that her pelvic MRI reauthorization was improperly denied.

IV. Conclusion

Ms. D is understandably frustrated that no one can tell her what is causing her pain, but the pain alone does not justify authorization of an MRI, nor is not evidence to support that the

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[28] Dr. Raman testimony. Exhibit F, p. 11.

[29] Dr. Raman gave a number an example of individuals with no pain who had abnormalities. In a study of elite tennis players only 4% had no abnormalities. Abnormalities, in and of themselves are not indictive of a need for an MRI. The MRI would only be useful if there were objective findings that could help guide and explain what is found.

[30] Exhibit D, p. 1; Exhibit E, pp 2-7.

Division erred in its denial. This in no way questions the pain she is feeling, nor does it prevent her from requesting authorization in the future.

The Division's denial of Ms. D's requested pre-authorization for a pelvic MRI is affirmed.[31]

DATED: December 19, 2018.

By: *Signed*
Hanna Sebold
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 9th day of January, 2019.

By: *Signed*
Signature
Jessica L. Leeah
Name
Administrative Law Judge
Title

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

[31] As noted above, this decision only addresses the pelvic MRI based on Ms. D's voluntary dismissal during the hearing of her appeal of the lumbar spine MRI denial