

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

G [REDACTED] H [REDACTED],
Petitioner,

v.
AMERIGROUP COMMUNITY CARE,
Respondent.

Docket No.: [REDACTED]
[REDACTED]-OSAH—CMO-R-69-Walker-
Russell

Agency Reference No.: [REDACTED]

AMENDED INITIAL DECISION


FILED
OSAH
AUG 09 2022

Appearances: For Petitioner: G [REDACTED] H [REDACTED], Pro Se
For Respondent: D.J. Jeyaram, *Esquire*


Grant Mintz, Legal Assistant

I. INTRODUCTION:

Petitioner, G [REDACTED] H [REDACTED], appeals the decision of Respondent, Amerigroup Community Care (“Amerigroup”), to deny Petitioner’s request for physical therapy services coverage under the Georgia Families Medicaid Program. The parties were provided an opportunity to present sworn testimony and documentary evidence at the hearing held on July 19, 2022, via video-conference. The record was held open until August 2, 2022, for the parties to submit a Proposed Order.¹ For the reasons indicated below, Respondent's decision to deny Petitioner's requested services is **HEREBY AFFIRMED.**

II. FINDINGS OF FACT:

The undersigned has considered the entire evidence in this case and, based upon a preponderance of the credible evidence, makes the following specific findings of fact:

¹ Respondent submitted its Proposed Order on July 28, 2022. Petitioner failed to submit a Proposed Order in this matter.

1.

Amerigroup has contracted with the Georgia Department of Community Health to provide Medicaid healthcare services to Medicaid members. Petitioner is a thirty nine (39) year old recipient of Medicaid Healthcare services managed by Amerigroup. (Testimonies of Petitioner and Iris B. Hamilton, RN, MPA; Respondent's Exhibit R-5).

2.

On October 10, 2021, Petitioner was involved in a motor vehicle accident and sustained injuries to her neck and back. Petitioner retained an attorney who referred Petitioner to a chiropractor for treatment, which she received from October 18, 2021, until December 2021. In December 2021, the chiropractor referred Petitioner to a pain management doctor. Petitioner was able to schedule an appointment in January 2022. (Testimony of Petitioner).

3.

The pain management doctor recommended that Petitioner get a series of injections and informed Petitioner that Amerigroup requires that Petitioner receive four (4) weeks of physical therapy before she could receive the recommended injections. Petitioner's pain management provider requested that Amerigroup approve 2 visits per week for 6 weeks of physical therapy. Petitioner concedes that she did not contact Amerigroup to discuss her Medicaid plan benefits, or confirm that it required her to receive four (4) weeks of physical therapy prior to obtaining injections. (Testimony of Petitioner; Petitioner's March 24, 2022, Adverse Benefit Determination Appeal Letter).

4.

The onset of Petitioner's condition was October 10, 2021, which was the date of the motor vehicle accident. Petitioner was over the age of 21 at the time of the onset of the condition for which she sought physical therapy. (Testimonies of Petitioner and of Iris B. Hamilton, RN, MPA, Director of Health Care Management for Amerigroup).

5.

Petitioner's request for authorization for physical therapy was submitted on or around March 10, 2022, which was 151 days from the onset of her condition. (Testimonies of Petitioner and of Iris B. Hamilton, RN, MPA, Director of Health Care Management for Amerigroup; OSAH Form 1).

6.

On or around March 14, 2022, Amerigroup issued Petitioner a Denial Letter of the request for approval of two (2) visits per week for six (6) weeks of physical therapy. Amerigroup denied approval because Petitioner was 21 or over and Petitioner had the injuries to her neck and back for more than three (3) months at the time of the request for physical therapy. Amerigroup made its decision based on Petitioner's benefit coverage under the "Therapy for Children's Disabilities and Outpatient Rehabilitation Services - Georgia Plan." (Testimony of Iris B. Hamilton, RN, MPA, Director of Health Care Management for Amerigroup; Respondent's March 14, 2022, Adverse Benefit Determination Letter; Respondent's April 11, 2022, Appeal Resolution - Final Denial Letter).

7.

On April 27, 2022, Petitioner timely appealed Respondent's, April 11, 2022, Final Denial Letter of her request for medical treatment for neck and back injuries. Other than her testimony, Petitioner did not submit any additional evidence into the record. (Testimony of Petitioner; Petitioner's April 27, 2022, Appeal letter).

III. CONCLUSIONS OF LAW:

1.

Because this matter involves an application for public assistance benefits, the burden of proof is on the Petitioner. Ga. Comp R. & Regs. 616-1-2-.07(1)(e). The standard of proof is a preponderance of the evidence. Ga. Comp R. & Regs. 616-1-2-.21(4).

2.

When a contested case is referred to the Office of State Administrative Hearings, the Administrative Law Judge assigned to the case has "all the powers of the referring agency..." O.C.G.A. § 50-13-41(b). The evidentiary hearing is de novo, and the administrative law judge "shall make an

independent determination on the basis of the competent evidence presented at the hearing." Ga. Compo R. & Regs. 616-1-2-.21 (I). To the extent an issue involves the interpretation of a Federal statute, "it is a question of law which is reviewed de novo." Draper v. Atlanta Indep. Sch. Sys., 518 F.3d 1275, 1284 (11th Cir. 2008).

3

Medicaid is a joint federal-state program that provides comprehensive medical care for certain classes of eligible recipients whose income and resources are determined to be insufficient to meet the costs of necessary medical care and services. 42 U.S.C. §§ 1396 *et seq.*; *Moore v. Reese*, 637 F.3d 1220, 1232 (11th Cir. 2011).

4.

Amerigroup has entered into a contract with the Georgia Department of Community Health to provide or arrange Medicaid healthcare services to Medicaid members, including Petitioner. The Amerigroup Policy provides that for members age 21 or over, physical therapy "is a covered service only in the short-term treatment of acute conditions resulting from illness, injury, medical or surgical treatment. **Such short-term therapy is limited to a period of 90 days when deemed medically appropriate on clinical review and then only for 90 days from the onset of the condition.**" (Respondent's Exhibit R-4, "Therapy for Children's Disabilities and Outpatient Rehabilitation Services - Georgia Plan").

5.


In this matter, Petitioner was over the age of 21 at the October 10, 2021, onset of the condition for which she sought physical therapy services. Petitioner's request for physical therapy services was submitted on or around March 10, 2021, approximately 151 days from the onset of her condition. Therefore, Petitioner's request for physical therapy services was outside of the limited 90 days period from the onset of the condition, as specified in Amerigroup's Medical Policy for providing therapy services for members over the age of 21. Accordingly, Petitioner has failed to meet her burden of proof in establishing, by a preponderance of the evidence, that she meets the eligibility requirements to receive physical therapy services covered by Respondent.

IV. INITIAL DECISION:

Based upon the foregoing, it is concluded that Respondent's decision to deny Petitioner's request for physical therapy services, for 2 visits per week for 6 weeks, under the Georgia Families Medicaid Program is **HEREBY AFFIRMED**.

SO ORDERED, August 8, 2022

Carol W. Russell

The seal of the Georgia Office of State Administration is circular with a rope-like border. The outer ring contains the text "GEORGIA OFFICE OF STATE ADMINISTRATION" at the top and "1983" at the bottom. The center features a classical architectural scene with a pedimented structure and figures.

CAROL WALKER-RUSSELL
Administrative Law Judge