

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,567
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Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying coverage for medical services rendered by a non-Medicaid enrolled medical provider under the Dr. Dynasaur program.

FINDINGS OF FACT

1. The petitioner is a minor insured under the Dr. Dynasaur program, a division of the Medicaid program. When he enrolled, his guardians were given a "member handbook" explaining his benefits. The handbook explained that the petitioner is part of a managed care program in which PATH will pay for services rendered by health providers who have agreed to accept Medicaid insurance. The handbook specifically warns enrollees not to choose providers who will not accept Medicaid/Dr. Dynasaur and that doing so will cause them to have to pay the bill. Enrollees are also warned not to make direct payments to providers because reimbursement is

not possible. In the case of an emergency, enrollees are advised they should go to the nearest emergency room and call their primary care provider as soon as possible. PATH says this is because virtually all hospital emergency rooms are Medicaid providers in their states. In addition to the handbook, enrollees are provided with an insurance card containing a toll free number they are urged to call if they have questions about coverage.

2. During a camping trip to the greater Portland, Maine area, the petitioner cut his leg on the chain of his bike. The petitioner's mother was advised by the campground personnel that the closest medical help was an "urgicenter", a private medical clinic that would see patients without appointments. The mother said that her concern was getting assistance to her son as quickly as possible and that she assumed that Dr. Dynasaur would cover the treatment wherever it was obtained because it was an emergency.

3. When she arrived with her son at the "urgicenter" the mother presented her son's Dr. Dynasaur card and was told by the receptionist that the center would not bill Medicaid or any other insurance. Payment was required in full on the spot by cash, check or credit card before service was rendered. The petitioner's mother paid for the service by credit card in

the amount of \$484.00. She made this decision because she felt it was in her son's best interest to receive the care at once.

4. The petitioner's mother subsequently asked PATH to reimburse her for the bill. PATH denied the request both because of its policy not to reimburse for direct payments to providers but also because the "urgicenter" is not a participant in the Medicaid program. PATH attempted, more than once, to enroll the physicians at the "urgicenter" as Medicaid providers and asked that a refund be paid to the petitioner but received no response to these requests.

ORDER

The decision of PATH is affirmed.

REASONS

The Dr. Dynasaur program is part of PATH's Medicaid managed care network which contemplates the provision of health care through coordination by a Primary Care Physician with a network of other health providers who have specifically agreed to accept Medicaid reimbursement rates and follow billing and treatment rules. See M103.3 and M155. Although services are generally accessed through the Primary Care Physician, the regulations allow enrollees to "self-refer" if "emergency services" are needed. M103.3D. If the enrollee

has chosen a non-participating Medicaid provider in an emergency situation, PATH will make payment by enrolling the provider "if otherwise eligible" retroactively in the Medicaid program. M103.3L. Payments are made to the providers under Medicaid rules and not to the enrollees. M103.3.

PATH says that its Dr. Dynasaur handbook directs persons in an emergency situation to go to a hospital emergency room since virtually all hospitals are Medicaid providers in their states and can be easily enrolled in the Vermont Medicaid program to facilitate payment. They also will bill Medicaid and will not require up-front payment for the service. Furthermore, PATH will not reimburse enrollees who make market payments because the program seeks to control costs through special agreements with providers.

It is not unreasonable for a parent concerned about a child's injury to seek the quickest possible care with little or no thought for how the expense will be paid. However, PATH had duly notified the petitioner's family in advance of the injury as to the conditions under which it would cover medical care outside the state on an emergency basis. It had clearly instructed the family in the manual to go to an emergency room and to call the primary care physician. The family was provided with a number to call on the enrollment card if there

was a question about coverage. PATH had also clearly told them not to pay any bill upfront since payments could only be made to providers and not to recipients. The manual advised enrollees that if they failed to use participating providers they would have to pay for the medical expense themselves.

It is not clear whether the petitioner's family had failed to absorb the above information or knew the rules but still decided to use a clinic that would not accept a Medicaid card because it seemed safer to treat the petitioner's wound at once. In either case, there is no ground to force PATH to deviate from its regulations because of some failure on its part. In addition to informing the petitioner of the rules and giving his family a phone number to call with questions, PATH made several efforts to get the physicians at the private clinic to enroll as providers to no avail. This can come as no surprise to anyone, as a private clinic which operates on a cash-in-advance-of-medical-treatment system would certainly have little incentive to refund the money to the petitioner's family and accept a lower Medicaid reimbursement rate. It is unfortunate that the family has to absorb the cost of this emergency care for a choice it made when it was certainly more focused on the health of their child than the cost of the service. However, as PATH has followed its own rules in

denying payment, the Board is constrained to uphold the result. See 3 V.S.A. § 3091(d) Fair Hearing Rule 17.

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