

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,275
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, (DCF) denying payment under the Medicaid program for laboratory services performed by an out-of-state provider at the request of her physician.

FINDINGS OF FACT

1. The petitioner is a Medicaid recipient who was treated last spring by a Medicaid enrolled provider who is a specialist in obstetrics and gynecology. As part of her diagnosis and treatment, the physician sent stool samples to an out-of-state laboratory for a comprehensive digestive analysis. The petitioner was aware that the laboratory was in North Carolina but believed that her sample was being sent there because it was able to perform specialized tests not available at local laboratories.

2. The laboratory submitted its \$341 bill to DCF for payment. DCF advised the laboratory that it could not pay the

bill unless it agreed to enroll in the Vermont Medicaid program. Enrollment consists of agreement to take Medicaid reimbursement rates and not to "balance bill" the patient. The laboratory declined enrollment and DCF would not pay the bill.

3. The laboratory bill was then sent to the petitioner who filed this appeal. The petitioner was asked by the hearing officer to obtain an explanation from her physician as to why the samples were sent to a non-Medicaid provider. The physician declined to provide the statement and the petitioner is no longer her patient.

4. The petitioner acknowledges that she was informed on page 13 of the Medicaid Member Handbook that if she chose a provider who does not accept Medicaid, she might have to pay for the service herself. However, there is no dispute that it was her physician, and not the petitioner, who chose the provider.

5. The Department does not dispute that the laboratory test was necessary. DCF has agreed to write a letter to the physician reminding her that she must use only Medicaid enrolled providers for laboratory tests. It has also agreed to contact the laboratory on behalf of the petitioner to advise it that the petitioner may have a defense to collection

of the bill since the petitioner has insurance which was refused by the laboratory.

ORDER

The decision of DCF not to pay the bill of a provider who will not enroll is affirmed.

REASONS

There is no question that laboratory tests of this type are a covered service under the Medicaid program. M 730. DCF has not refused to pay for this service; rather, the out-of-state laboratory has refused to accept the petitioner's Vermont Medicaid coverage after the service was rendered. DCF's rules prevent it from paying laboratories which will not agree to accept Medicaid reimbursement rates as payment in full for the service by enrolling with the state. M730. DCF is not authorized to make payments to laboratories at their published rates if they choose not to participate in the Medicaid program.

Although the petitioner knew that it is Medicaid's policy not to pay providers who do not accept Medicaid, it is clear that the petitioner did not choose the provider. Although it might have occurred to a more careful recipient to check the provider status of a laboratory providing an expensive

analysis, the petitioner, not unreasonably, trusted that her Medicaid enrolled physician was making a reasonable choice for her.

It does not appear that the petitioner has any fault in this matter but that does not allow DCF to pay the laboratory. The Board has required DCF in such cases in the past to notify the provider that it has offered payment and that it considers the provider's refusal to enroll and accept that payment as a defense to any collection action it might take against the Medicaid recipient. See Fair Hearing No. 19,033. DCF has already agreed to take that action and will notify the physician as well that she needs to take care in this regard in the future. There is no further relief which the Board can offer to the petitioner since DCF's position is in accord with its regulations. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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