
In Re: Manfredi Surgical

Cite as 4 *N.J.A.R.* 278

IN THE MATTER OF MANFREDI SURGICAL

Decided April 11, 1980

Initial Decision

SYNOPSIS

Manfredi Surgical requested relief from the denial of payment of a Medicaid claim for the removal of a patient from a body cast.

The administrative law judge assigned to the case determined that Manfredi sought payment for the labor necessary to remove a patient from a post-operative scoliosis cast and for measuring, fabricating and fitting the patient into a brace. The judge found that while no agency policy existed either authorizing or precluding Medicaid payment for body cast removal since the petitioner was qualified to perform the service and did so at the request of the attending physician, it should receive payment for the labor involved.

Accordingly, the administrative law judge ordered payment to Manfredi Surgical.

GOLDBERG, ALJ:

Manfredi Surgical requests relief from the administrative determination of the Division of Medical Assistance and Health Services denying full payment for two Medicaid claims pursuant to agency regulations Prosthetic and Orthotic Manual (P&OM) 205.2 and Chapter IV Payment Code 3808. The matter was transmitted to the Office of Administrative Law on February 11, 1980 for determination as a contested case pursuant to *N.J.S.A. 52:14F-1 et seq.*

At issue are the administrative decisions of the agency denying full Medicaid reimbursement for a special wheel chair seat for a cerebral palsy patient and the cost of labor incurred in removing a body cast and fitting an upper body orthotic brace for another patient. The issue regarding the special wheel chair seat became moot when, after petitioner's testimony, the agency's representative agreed that because of the special materials required and because it was "custom made," a supplemental Medicaid payment was warranted. The amount was discussed and an agency offer was accepted. The hearing was continued to adjudicate the appeal of agency's denial of the cost of labor in fitting the body brace.

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The agency relied upon P&OM 205.2 and Payment Code 3808 for its adverse action with respect to the cost of labor necessary to apply the upper body brace. P&OM 205.2 provides in pertinent part that:

For a new appliance, the provider shall submit a unit price for each complete item in the New Jersey Prosthetic and Orthotic nomenclature and shall include:

1. Cost of all labor required to prepare the appliance for final acceptance.
2. Cost of materials.

In addition the agency cited P&OM Chapter IV Payment Code 3808 which authorizes a Medicaid payment of \$140 for the type of body brace used by petitioner.

Petitioner does not contest the payment of \$140 for the brace. He does however contend that he is entitled to \$35.00 for the two hours labor necessary to remove the patient from his post-operative scoliosis cast; then measure, fabricate and fit him into the brace. Petitioner cites P&OM Chapter IV Payment Code 4230 to support his position. While Code 4230 permits payment at \$17.50 per hour for labor it applies to prosthetic appliances only. The brace in the instant matter is classified as an orthotic appliance and any labor attendant to its application is not covered by Payment Code 4230. In fact there is no agency policy which authorizes or precludes Medicaid payment to petitioner for the labor necessary to remove a patient from a body cast. P&OM 205.2 however, requires an interpretation that the labor attendant to measuring and fabricating is included in the fee stipulated in Payment Code 3808.

The agency also offered testimony to the effect that if a physician were to have fitted the brace a Medicaid payment for labor would not be made. This fact removes petitioner's claim for the labor in fitting the brace. Thus we are left with the question of whether petitioner is due any reimbursement for removing the patient from the body cast.

The agency agrees that petitioner is qualified and capable to remove the patient from the cast and also that he was requested to do so by the attending physician. No testimony was offered that the physician received payment for cast removal. A reasonable person must conclude that were a physician to have removed the body cast, Medicaid payment would be made after the execution of a properly submitted claim.

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Based upon the foregoing I **FIND**:

1. Petitioner removed a Medicaid patient from a body cast, measured, fabricated and fit him into a brace.
2. Petitioner performed these services at the request of the attending physician.
3. Petitioner is qualified to perform the services provided.
4. Testimony on behalf of the agency indicated that a physician would not receive Medicaid reimbursement for labor expended in fitting an orthotic brace.
5. The brace at issue is an orthotic appliance by definition.
6. Certain labor costs are allowed by agency regulation in fitting prosthetic appliances (P&OM Code 4230).
7. There is no agency policy either authorizing or precluding Medicaid payment to petitioner for body cast removal.

Based on the facts adduced at the hearing and pursuant to agency regulations previously cited I **CONCLUDE** that the issue with respect to supplemental reimbursement for the wheelchair seat has been resolved and **IS THEREFORE DISMISSED**.

I **ALSO CONCLUDE** that petitioner is entitled to receive Medicaid payment for the cost of labor in removing a Medicaid patient from the body cast but is not entitled to Medicaid reimbursement for labor incurred in measuring, fabricating and fitting said patient into the braces. Payment may only be made if the attending physician has not been paid for the same service. The amount of reimbursement shall be decided by applying agency regulation P&OM 205.2-9.

Therefore the action of the DMAHS denying petitioner a fee for removing the body cast is **REVERSED**.

**After reviewing this Initial Decision
the Division of Medical Assistance and Health Services
on May 9, 1980 issued the following Final Decision:**

The Director, Division of Medical Assistance and Health Services, has reviewed the record in this matter, including the initial decision of the administrative law judge and exceptions filed by Henry Konzelman, M.D., Medical Consultant. The Director adopts and incorporates the Findings of Fact and Conclusions and Recommendation with the exception of the following amendements.

The exceptions filed by Dr. Konzelman state that the administrative law judge misunderstood the testimony reported concerning physician unit fees. Dr. Konzelman testified that Medicaid pays a physician a

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unit fee which is reimbursement for the putting on and removing of a cast. When the petitioner removed the case in the present case, he did so at the request of the attending physician who should have removed the cast at no further charge to the Medicaid Program.

Therefore, the decision of the administrative law judge is reversed, and the decision of the agency denying petitioner a fee for removing the body cast is affirmed.

The Director upholds the administrative law judge's dismissal of the claim involving the special wheel chair seat.

This decision constitutes final agency action.