

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
57 Howard Avenue
Cranston, Rhode Island 02920
(401) 462-2132/Fax# (401) 462-0458
TDD# (401) 462-3363**

Docket # 14-608
Hearing Date: July 9, 2014

Date: July 31, 2014

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

**THE DHS PROVIDER MANUAL: MEDICAL ASSISTANCE
SECTION: 0374.60 Grievances and Appeals
0374.15 Rody Health Partners – Overview
0300.20.05 Medical Services Provided**

The facts of your case, the Agency policy, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the Appellant), Jack Demus, agency representative, Robin Etchingham Supervisor, and the Policy Unit.

Present at the hearing were: You (the Appellant), Jack Demus agency representative, Hassan Gardezi, Compliance Officer for United Healthcare, Barbara Hallock, Service Dept. Manager for United Healthcare and Rene Rulin, Chief Medical Officer for United Healthcare.

ISSUE: Is the Appellant allowed to receive a second pair of eye glasses in accordance with the United Healthcare Rhody Health Partners' contract?

DHS POLICIES:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy and Provider Manuals.

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The Agency Representatives testified:

- The Appellant is a Medicaid eligible adult enrolled in United Healthcare, Rhody Health Partners.
- The Executive Office of Health and Human Services (EOHHS) have contracted with United Healthcare to provide healthcare services to Medicaid eligible recipients.
- On March 5, 2014 United Healthcare issued a Level 1 Denial Notice to the Appellant regarding the Appellant's request for a second pair of eyeglasses within a twenty-four month period.
- The United Healthcare policy provides for recipients age 21 and older optometry services that are limited to once every two years: one refractive eye care exam; and one pair of eyeglasses (frames, lenses, dispensing fees).
- According to the policy for Rhody Healthcare, members must exhaust Level 1 and Level 2 appeal through the health plan before applying for a Hearing from EOHSS.
- The agency has no knowledge of the Appellant having filed a Level 2 appeal with United Healthcare as per requirement.
- The United Healthcare representative testified that the Appellant requested for the second pair of glasses within a twenty-four month time frame.
- She is not able to use eye glasses that have bi-focal lenses.
- The United Healthcare rep. presented a letter dated July 2, 2014 from the Appellant's doctor, Dr. Glass that recommended that the Appellant obtain a prescription pair of glasses for her distance vision and buy a pair of readers for her near vision.
- Up until prior to the Hearing, United Healthcare looked for the Appellant's Level 2 Appeal but no record of a Level 2 Appeal could be found.
- Back in 2011, United Healthcare has records that the Appellant had made numerous calls to the United Healthcare benefit service center, EOHHS, the Governor's Office and even Senator's Jack Reeds' Office in order to obtain a second pair of glasses.

- In March of 2011, a representative from EOHHS contacted the United Healthcare representative requesting that a one-time exception be made, allowing the Appellant to receive a second pair of glasses, so that the Appellant's calls would stop. United Healthcare agreed and the Appellant was informed by telephone as part of a three way telephone call between United Healthcare, an EOHHS representative and the Appellant, that she will receive a second pair of eye glasses prior to the twenty-four month period as a onetime exception such that the phone calls would stop.
- The State of RI has a contract with United Healthcare, the benefits in that contract are managed by United Healthcare and the benefit states that you can receive one pair of eye glasses every twenty-four months. There is an allowance for a medical necessity exception prior to the twenty-four months, so that if the vision changes a second pair can issue.
- The United Healthcare representative stated that they haven't found a Level 2 Appeal form that the Appellant indicated had been mailed in; all mail to United Healthcare is sent to Texas. There are two ways for requesting an appeal, either in writing or verbally.

United Healthcare agreed at Hearing to accept the Appellant's verbal request for a Level 2 Appeal/grievance/complaint and to review the Appellant's request and notify the Appellant and the Hearing Officer of their findings.

United Healthcare will present a copy of a letter from Dr. Glass dated July 2, 2014 that has his signature on it.

The record will remain open until July 23, 2014 for United Healthcare to submit its review of the Appellant's Level 2 Appeal/grievance/complaint and to present a signed copy of a letter from Dr. Glass.

The Appellant testified:

- The Appellant doesn't recall the way that she received a second pair of glasses happening the way the United Healthcare representative stated back in 2011. The Appellant remembers being told that she could have the second pair of glasses but she would have to wait two years and then have an eye exam to determine the next step.
- The Appellant questions the authenticity of the July 2, 2014 letter from Dr. Glass since it is not signed by the doctor.
- The Appellant presented a letter from United Healthcare dated March 5, 2014 regarding the Appellant's filing of a Level 1 grievance/complaint, the Appellant's request for a second pair of glasses, the benefits package that only allows for one pair of glasses during a twenty-four month period and if the Appellant still isn't satisfied, how to properly pursue a Level 2 grievance/complaint and then a request for a Fair Hearing with DHS.
- The Appellant presented a letter from United Healthcare dated April 8, 2014 regarding a telephone conversation and a fax received by United Healthcare on April 2, 2014. The letter addresses the Appellant's request for a second pair of

glasses being denied and that although the Appellant received a second pair of glasses in 2011, it was a one-time exception.

- The Appellant testified that she filed a Level 2 Appeal and that she had made several calls following up; the Appellant had been told that all mail/paperwork is sent to Texas.
- The Appellant is not able to use bi-focal glasses or contact lenses. She has also attempted to purchase eye glasses from a drug store but they don't fit correctly and due to having Bell's palsy, she would need to bend and twist the frames.

FINDINGS OF FACT:

- The Appellant is a Medicaid eligible adult enrolled in United Healthcare Rhody Health Partners.
- The Executive Office of Health and Human Services (EOHHS) have contracted with United Healthcare to provide healthcare services to Medicaid eligible recipients.
- On March 5, 2014 United Healthcare issued a Level 1 Denial Notice to the Appellant regarding the Appellant's request for a second pair of eyeglasses within a twenty-four month period.
- The United Healthcare policy provides for recipients age 21 and older optometry services that are limited to once every two years: one refractive eye care exam; and one pair of eyeglasses (frames, lenses, dispensing fees).
- According to the policy for Rhody Healthcare, members must exhaust Level 1 and Level 2 appeal through the health plan before applying for a Hearing from EOHSS.
- The agency has no knowledge of the Appellant having filed a Level 2 appeal with United Healthcare as per requirement.
- The United Healthcare representative testified that the Appellant requested for the second pair of glasses within a twenty-four month time frame.
- The United Healthcare rep. presented a letter dated July 2, 2014 from the Appellant's doctor, Dr. Glass that recommended that the Appellant obtain a prescription pair of glasses for her distance vision and buy a pair of readers for her near vision.
- Back in 2011, United Healthcare has records that the Appellant had made numerous calls to the United Healthcare benefit service center, EOHHS, the Governor's Office and even Senator's Jack Reeds' Office in order to obtain a second pair of glasses.
- In March of 2011, a representative from EOHHS contacted the United Healthcare representative requesting that a one-time exception be made, allowing the Appellant to receive a second pair of glasses, so that the Appellant's calls would stop. United Healthcare agreed and the Appellant was informed by telephone as part of a three way telephone call between United Healthcare, an EOHHS representative and the Appellant, that she will receive a second pair of eye glasses prior to the twenty-four month period as a one-time exception such that the phone calls would stop.

- The State of RI has a contract with United Healthcare, the benefits in that contract are managed by United Healthcare and the benefit states that you can receive one pair of eye glasses every twenty-four months. There is an allowance for a medical necessity exception prior to the twenty-four months, so that if the vision changes a second pair can issue.
- The Appellant presented a letter from United Healthcare dated March 5, 2014 regarding the Appellant's filing of a Level 1 grievance/complaint, the Appellant's request for a second pair of glasses, the benefits package that only allows for one pair of glasses during a twenty-four month period and if the Appellant still isn't satisfied, how to properly pursue a Level 2 grievance/complaint and then a request for a Fair Hearing with DHS.
- The Appellant presented a letter from United Healthcare dated April 8, 2014 regarding a telephone conversation and a fax received by United Healthcare on April 2, 2014. The letter addresses the Appellant's request for a second pair of glasses being denied and that although the Appellant received a second pair of glasses in 2011, it was a one-time exception.
- The Appellant testified that she filed a Level 2 Appeal and that she had made several calls following up; the Appellant had been told that all mail/paperwork is sent to Texas.
- On July 16, 2014, United Healthcare faxed a copy of the letter that had issued to the Appeals Office that the Appellant had been issued on the same day, informing the Appellant that her Level 2 Appeal/grievance/ complaint that she made while at Hearing had been reviewed and the finding are that the Appellant's plan benefits states that she can only receive eyeglasses, if needed, once every twenty-four months. Also, attached was the "Member Appeal Right".
- On July 16, 2014, United Healthcare faxed a copy of letter date July 2, 2014 to the Appeals Office that had been addressed to United Healthcare by Dr. Glass and signed.

CONCLUSION:

The issue to be decided is whether the Appellant is allowed to receive a second pair of eye glasses in accordance with the United Healthcare, Rhody Health Partners' contract?

The Appellant is a member of Rhody Health Partners and is requesting a second pair of eye glasses. She needs glasses for distance and reading and not able to wear bi-focal or contact lenses due to having Bell's palsy. The Appellant already has a pair of glasses for distance but is requesting a second pair that would help with reading.

On March 5, 2014, United Healthcare issued a letter to the Appellant's regarding to her Level 1 grievance/complaint of being denied a second pair of glasses. The letter states that part of the Appellant's benefit package covers "routine eye exams, including refractions and one pair of eyeglasses, as needed, are covered in a twenty-four (24) month period." The letter continues with although the Appellant did received a second pair of eyeglasses back in 2011, it was a one-time exception.

Up until just prior to the date of this Hearing, United Healthcare searched for a request from the Appellant's Level 2 grievance/complaint that she claims to have been made but

one could not be located or established to have been made. The contract that the State of RI has with United Healthcare allows for United Healthcare to establish a process as to how a member that they insure can appeal a denial of a benefit/service. When an insured has a grievance or complaint regarding being denied a benefit/service from United Healthcare, the insured must file a Level 1 Appeal. When the insured receives the decision from the Level 1 Appeal and is not satisfied, the insured may file a Level 2 Appeal. If after review, the insured is still not satisfied, they then can file for a Fair Hear with DHS.

On March 5, 2014 United Healthcare responded to the Appellant's request for a Level 1 Appeal. The letter states in part:

"As part of the benefit package, routine eye exams, including refractions and one pair of eyeglasses, as needed, are covered in a twenty-four month period...In 2011, United Healthcare Community Plan did pay for two (2) pairs of eyeglasses. That the time, you were informed that this was a one-time exception. According to our records, you are eligible to receive coverage for one (1) pair of eyeglasses".

Back in March of 2011, the EOHHS requested that United Healthcare grant the Appellant a one-time exception and allow her a second pair of glasses, hoping that it would end the numerous phone calls from the Appellant. United Healthcare agreed to this one-time exception.

On April 8, 2014 United Healthcare wrote to the Appellant regarding their telephone conversation from April 2, 2014. The Consumer Affairs Advocate for United Healthcare wrote:

"In researching your concerns, I found that the Consumer Affairs Department previously responded to you regarding this issue. Your approval request for a 2nd pair of glasses was denied. The letter further states that the prior approval (in 2011), for a 2nd pair of glasses, was approved as a one-time exception only".

It is unclear as to why United Healthcare did not consider the Appellant's call on April 2, 2014 a Level 2 Appeal request since the Appellant called displeased with the decision from the Level 1 Appeal decision. The agency's position in this matter was that there is no record of the Appellant filing a Level 2 Appeal with United Healthcare as per their requirements.

Rhody Health Partners members shall exhaust the internal Managed Care Organization (MCO) Level 1 and Level 2 appeals process before requesting an EOHHS Fair Hearing. (DHS Policy § 0374.60 B)

During the Hearing the United Healthcare representative stated that the Appellant had two ways of requesting an appeal, either in writing or verbally. It was then suggested that the Appellant then request verbally, while at the Hearing, a Level 2 Appeal in hopes

to expedite the issue. United Healthcare agreed to accept the Level 2 Appeal request and requested additional time for review.

The record was held open until July 23, 2014 allowing United Healthcare an opportunity to review the Appellant's Level 2 Appeal. On July 16, 2014 United Healthcare issued its decision with regards to the Appellant's Level 2 Appeal. The letter states:

“...United Healthcare has determined that your plan benefits state routine eye exams are: Covered as medically necessary and are limited to examinations that include refractions and provision of eyeglasses (lense frames and dispensing fee) if needed on every 24 months...There are no replacements for lost/stolen/damaged glasses. A spare pair of eyeglasses is not covered.”

United Healthcare also presented a signed letter dated July 2, 2014 from the Appellant's doctor, Charles Glass, MD, who was writing to United Healthcare and stating he had “...recommended, through my staff, that (the Appellant) obtain a prescription pair of glasses for her distance vision and buy a pair of readers for her near vision.”

The Appellant states that although she isn't looking for something free, she is just in need of a second pair of glasses. She has suffered from Bell's palsy since the age of five years old; she is not able to wear bi-focal eyeglasses or contact lenses; and is not willing to undergo surgery to correct her vision. The Appellant also demonstrated at Hearing what she must do to the “reader” eyeglasses that her doctor suggested; bending and twisting the eyeglass frames so that the glasses line up with eyes. Although United Healthcare has apologized, the Appellant has become frustrated with the process of having filed a Level 1 and the misplacement of her original Level 2 Appeal. The Appellant also has a different recollection as to how she obtained a second pair of eyeglasses in 2011; she doesn't recall being told that on that occasion that it would be a onetime exception.

In conclusion, the State of RI has a contract with United Healthcare to provide a managed care program for Medicaid eligible adults, Rhody Health Partners. The Appellant is a member of Rhody Health Partners. As part of benefit package that is offered, there are some restrictions, one being that members are eligible for eyeglasses once every twenty-four months, if necessary. Another restriction is that if a member of Rhody Health Partners has a complaint or grievance, they must file , either in writing or verbally, a Level 1 Appeal and if needed, a Level 2 Appeal prior to filing an Appeal with DHS, Fair Hear. There is a medical exception but the Appellant's own doctor states that the Appellant does not meet the exception requirement. The doctor recommended that the Appellant purchase “readers”, similar to those eyeglasses found at drug stores and can be purchased without a prescription. The decisions and actions by both the agency and United Healthcare are upheld.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the Appellant is only eligible for one pair of eyeglasses within a twenty-four month period. The appellant's request for relief is therefore denied.

A handwritten signature in black ink that reads "Thomas Bucacci". The signature is written in a cursive style with a large initial 'T' and 'B'.

Thomas Bucacci
Appeals Officer