

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Tina Little (Respondent) established membership with CalPERS through her employment with California State University, San Diego. By virtue of her employment, Respondent is eligible for CalPERS health benefits under the Public Employees' Medical and Hospital Care Act (PEMHCA). At all times relevant to this appeal, Respondent was enrolled in the UnitedHealthcare SignatureValue Alliance health maintenance plan (UHC Plan). Respondent elected Mercy Physicians Medical Group, Inc., Scripps Care Affiliate, (MPMG/Scripps) as her network medical group.

In December 2021, MPMG/Scripps approved Respondent's referral for arthroscopic knee surgery from Girard Orthopedic Surgeons Medical Group, Inc., (Girard Orthopedic Group) in San Diego. The service was approved to be provided at Scripps Memorial Hospital. Respondent chose Michael Kimball, M.D., a member of Girard Orthopedic Group, to perform the surgery. Dr. Kimball refused to perform arthroscopic knee surgery at Scripps Memorial Hospital. Instead, he performed the surgery at the University Ambulatory Surgery Center (University Surgery Center).

Respondent's medical group, MPMG/Scripps, did not authorize performance of the surgery at University Surgery Center. United Health Care (UHC) denied benefit coverage for the cost of the facility. The denial concerned only the cost of the facility. The cost of Dr. Kimball's and the anesthesiologist's services were covered.

The UHC Plan publishes an Evidence of Coverage which concerns benefits and claims. Services rendered without authorization from a member's medical group or UHC are not covered, except for emergencies or urgently needed services.

Respondent requested reimbursement for the facility cost at University Surgery Center. UHC denied her request because out-of-network services are not a covered benefit except when emergency or urgent care is required, and neither exception for out-of-network services were met in this case. Respondent requested reconsideration of the denial of her claim. Once again, Respondent was advised that the service was not a covered benefit. The letter advised Respondent that she could file a complaint with the Department of Managed Health Care (DMHC).

Respondent submitted an Independent Medical Review Complaint with the DMHC. On June 2, 2022, DMHC advised Respondent that UHC had complied with the health plan contract. DMHC's denial advised Respondent of her right to an administrative review with CalPERS.

Respondent requested CalPERS' administrative review on July 21, 2022. CalPERS issued a determination which advised Respondent that CalPERS upheld the UHC and DMHC decisions which appropriately denied benefit coverage at University Surgery Center in accordance with the terms and conditions of the 2021 Evidence of Coverage. The letter informed Respondent of her appeal rights.

Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on January 29, 2024. Respondent represented herself at the hearing.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet, answered Respondent's questions, and clarified how to obtain further information on the process.

CalPERS presented the testimony of Sheri Alvarado who described the appeals process, the role of CalPERS as the administrator of the plan, and the reasons why CalPERS upheld UHC's denial of benefit coverage for the cost of the facility. Ms. Alvarado specifically testified that the Evidence of Coverage states that services rendered without authorization from a member's medical group or UHC are not covered, except for emergencies or urgently needed services. Because Respondent had not received prior authorization to have her knee surgery completed at the University Surgery Center and did not meet either exception, the cost of the facility was appropriately denied.

Respondent testified on her own behalf that she was entitled to have the facility costs covered because UHC should have known that Dr. Kimball would not perform the surgery at Scripps Memorial Hospital. She also contended that she was "led to believe" costs incurred at the University Surgery Center would be approved. Finally, she argued her surgery was urgent and an emergency.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that because MPMG/Scripps is Respondent's network medical group, Respondent had no right to benefits to pay for University Surgery Center services unless she obtained authorization for those services. The ALJ found that neither UHC nor MPMG/Scripps authorized the use of University Surgery Center. The ALJ found that Respondent failed to prove that University Surgery Center is an in-service provider for MPMG/Scripps. Instead, UHC, DMHC, and CalPERS all determined that University Surgery Center was not an in-network provider for MPMG/Scripps. The ALJ found the evidence to be uncontroverted that neither UHC nor MPMG/Scripps authorized a referral to the University Surgery Center. Further, the ALJ found that Respondent failed to prove that her surgery was performed pursuant to an emergency or as an urgent matter. The ALJ found the evidence was "overwhelming" that Respondent was not misled. Therefore, the ALJ denied Respondent's appeal.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

April 16, 2024

Cristina Andrade
Senior Attorney