

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

SARAH C. NUDING, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 01-1804  
 )  
 DEPARTMENT OF MANAGEMENT )  
 SERVICES, DIVISION OF STATE )  
 GROUP INSURANCE, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice the Division of Administrative Hearings through its duly-designated Administrative Law Judge, Fred L. Buckine, conducted a video hearing in the above cause on July 31, 2001, in Tallahassee and Tampa, Florida.

APPEARANCES

For Petitioner: Sarah C. Nuding, pro se  
15501 Bruce B. Downs Boulevard  
Apartment 3705  
Tampa, Florida 33647

For Respondent: Julia P. Forrester, Esquire  
Department of Management Services  
4050 Esplanade Way, Suite 260  
Tallahassee, Florida 32399-0950

STATEMENT OF THE ISSUE

The issue in this case is whether the expenses incurred by Petitioner incident to admission to Town & Country Hospital on December 11, 1999, resulted from an intentional self-inflicted

injury, to wit: attempted suicide, and are therefore excluded from coverage under the State of Florida Employees Group Health Self Insurance Plan.

PRELIMINARY STATEMENT

On December 11, 1999, Deputy Sheriff Midarst, Hillsborough County Sheriff Department, delivered Petitioner to Town & Country Hospital initiating involuntary examination pursuant to Section 394.463, Florida Statutes. Petitioner had ingested an overdose of prescription medication. Hospital admission listed Petitioner's "chief complaint" as a suicide attempt.

On December 13, 1999, the hospital released Petitioner and billed for medical services rendered. Petitioner's medical bill was denied by Blue Cross Blue Shield of Florida (BCBS). On April 3, 2000, Petitioner sought and received review of the initial denial. On April 11, 2000, Petitioner received from BCBS notice of a second review denying hospitalization charges. On May 10, 2000, Petitioner sought review by the Division of State Group Insurance (DSGI) of BCBS's denial of payment. On June 6, 2000, DSGI advised Petitioner that BCBS's denial was proper because Petitioner's PPO plan did not cover any services and supplies received due to "an intentional self-inflicted injury whether the participant was sane or insane."

On May 8, 2001, DSGI referred Petitioner's request for an administrative hearing, and the initial order was issued by the Division of Administrative Hearings. On May 17, 2001, a response to initial order was filed. On May 23, Notice of Hearing scheduling the final hearing for July 13, 2001, was issued. On July 5, 2001, Amended Notice of Video Hearing was issued, scheduling the final hearing for July 13, 2001, via video teleconference at sites in Tampa and Tallahassee, Florida.

At the final hearing, Petitioner testified on her own behalf. Respondent offered the testimony of Ms. Melody J. Bartel who was qualified as an expert in the practice of nursing and in reviewing of medical records. By stipulation of the parties four joint exhibits were admitted into evidence. No transcript of these proceedings was ordered. Respondent filed a Proposed Recommended Order on August 3, 2001, which has been considered. Petitioner did not file a Proposed Recommended Order.

#### FINDINGS OF FACT

1. At all times pertinent hereto, Petitioner, Sarah Nuding, was employed by the University of South Florida and was a participant in the State of Florida Employees Group Health Self Insurance Plan (PPO).

2. Respondent, Department of Management Services, Division of State Group Insurance (DSGI), administers the state's self-

funded group insurance plan for employees and has secured the services of BCBS as its third party administrator.

3. On December 11, 1999, Petitioner called the Hillsborough County Sheriff's office after ingesting a handful of Wellbutrin and four tablets of Neurontin. Deputy Sheriff Midarst initiated involuntary examination pursuant to Section 394.463, Florida Statutes, (Baker Act), and Petitioner was admitted through the emergency room to Town & Country Hospital, Tampa, Florida. Petitioner was placed in the Hospital's Intensive Care Unit for observation of her seizure activity and remained there under observation and treatment until her release on December 13, 1999.

4. Upon admission and after examinations, Petitioner was diagnosed with chronic anemia by the admitting physician who ordered consultation with the treating physician before medical services and treatment were provided.

5. The admitting and treating physician, after review of Petitioner's hematocrit and hemoglobin levels which were above that normally requiring hospitalization, determined that Petitioner should be treated for the anemia condition before her discharge on December 13, 1999.

6. Petitioner's State of Florida Employees Group Health Self Insurance Plan Booklet and Benefit Document excludes

coverage for services rendered for treatment of self-inflicted wounds, in pertinent part provides:

The following are not Covered Services and Supplies under the Plan. The Participant is solely responsible for the payment of charges for all such services, supplies or equipment excluded in this Section.

5. Any services and supplies received due to the following circumstances:

(b) Resulting from an intentional self-inflicted injury whether the Participant was sane or insane. An injury is intentionally self-inflicted if the Participant intended to perform the act that caused the injury regardless of whether the Participant intended to cause the injury.

7. On or about July 31, 2000, BCBS notified DSGI that of the Hospital's statement totaling \$8,244.00 for services and supplies rendered December 11-13, 1999, only \$1,030.25 were directly related to a diagnosis of "anemia"; the remaining charges are for the diagnosis of "drug overdose" and are not covered expenses under the State PPO Plan.

8. The decision by both BCBS and DSGI, to pay those charges related to Petitioner's diagnosis and treatment for anemia and to not pay those charges related to the suicide attempt, including two days intensive care unit cost of \$1,150.00 per day, are supported by preponderance of the evidence, and is in accord with the terms and conditions of the insurance plan exclusion provision.

9. Petitioner's position is that her prolonged hospital stay, medical treatment and supplies were: (a) not at her request and consent, (b) that her anemia condition was a pre-existing, and therefore, a covered condition, and (c) intensive care placement (\$1,500.00 per day for two days) was not necessary to treat her pre-existing anemic condition, therefore, only her first day hospitalization expenses should have been excluded. However, Petitioner's position ignores the fact that her hospital admission was for a suicide attempt, and her stay resulted from the requirements of the Section 394.463, Florida Statutes, to wit: mandatory involuntary placement for 72 hours.

#### CONCLUSIONS OF LAW

10. The Division of Administrative Hearings has jurisdiction over the parties and subject matter of this cause pursuant to Sections 120.569 and 120.57, Florida Statutes.

11. Petitioner's State of Florida Employees Group Health Insurance Plan clearly excluded coverage for any treatment of self-inflicted injuries. Petitioner's intentional overdose of medication with the intent to commit suicide which required involuntary hospitalization was self-inflicted and therefore, properly excluded from coverage.

12. Where, as here, proof is made of a loss within the contract of insurance, the burden is on the insurer to

establish, by a preponderance of the evidence, that the loss arose from a cause that is excepted from the policy.

Hudson v. Prudential Property and Casualty Insurance Company, 450 So. 2d 565 (Fla. and 2nd DCA 1984); Stonewall Insurance Company v. Emerald Fisheries, Inc., 388 So. 2d 1089 (Fla. 3d DCA 1980); Mason v. Life & Casualty, Insurance Company, 41 So. 2d 153 (Fla. 1949). Here, the Department has met its burden of proof by demonstrating that the excluded payment in question arose as a consequence of an intentional self-inflicted injury; to wit: attempted suicide by overdose of medication.

#### RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Management Services, Division of State Group Insurance, issue a final order dismissing with prejudice the petition for administrative review.

DONE AND ENTERED this 14th day of August, 2001, in  
Tallahassee, Leon County, Florida.

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FRED L. BUCKINE  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 14th day of August, 2001.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order must be filed with the agency that will issue the Final Order in this case.