

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**Karina Velasquez
Petitioner,**

v.

DOAH Case No. 10-0036

**Department of Management Services,
Division of State Group Insurance**

Final Order No. DMS – 10-0102

Respondent.

FINAL AGENCY ORDER

THIS MATTER has come before the undersigned for the purpose of issuing a final order, in accordance with section 120.569 (I), Florida Statutes.

On June 16, 2010, Administrative Law Judge Eleanor M. Hunter issued a Recommended Order recommending that the Department enter a final order approving coverage of Petitioner's claim. The Petitioner has requested payment for a magnetic resonance imaging (MRI) of Petitioner's cervical spine on April 8, 2009.

During all times relevant to these proceedings, the Petitioner was covered under the State of Florida's self-insured health plan (Plan), established pursuant to section 110.123, Florida Statutes. The Plan is managed by the Respondent, Division of State Group Insurance (DSGI), an administrative entity within the Department of Management Services (DMS).

BACKGROUND

The terms and conditions of participation in the Plan are contained in the "State Employees' PPO Plan Group Health Insurance Plan Booklet and Benefit Document," effective January 2007, as modified, effective January 1, 2008, and January 1, 2009

("Benefits Document"). The Benefits Documents notifies Plan participants that the State retains the right to amend or change the terms and conditions of the Plan.

Effective January 1, 2008, the State instituted a procedure whereby its third party administrator would review all claims submitted for advanced imaging services advanced imaging services such as MRIs. The modification to the Benefits Document notified participants that the third party administrator would provide medical guidelines that would be used to determine whether or not certain services are covered.

In the instant case, the Administrative Law Judge has found the referring physician determined that prior to consulting with him, the Petitioner had complied with the requirements for conservative treatment prior. Thus, the physician referred the Petitioner for the MRI without further conservative treatment as outlined in the applicable guidelines.

In view of the foregoing, it is:

ORDERED AND ADJUDGED:

1. Administrative Law Judge Eleanor M. Hunter's Recommended Order, attached hereto and incorporated by reference, is adopted in toto, and request for coverage and payment is granted.
2. The decision to cover the MRI is based on the facts of this case only and applies to the instant case only and does not establish precedent for waiver of guidelines required for the approval of any treatment option.
3. This Final Order shall become effective on the date of filing with the Agency Clerk of the Department of Management Services.

DONE and ORDERED this 12 day of November 2010, Tallahassee;

Florida.



LINDA H. SOUTH, Secretary
Department of Management Services
4050 Esplanade Way
Tallahassee, Florida 32399-0950

Copies furnished to:

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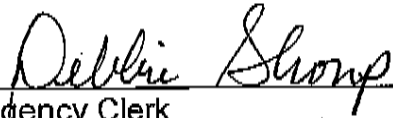
Michelle Robleto
Director
Division of State Group Insurance
4050 Esplanade Way
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NOTICE OF RIGHT TO APPEAL

Unless expressly waived by a party such as in a stipulation or in other similar forms of settlement, any party substantially affected by this final order may seek judicial review by filing an original Notice of Appeal with the Agency Clerk of the Department of Management Services, and a copy, accompanied by filing fees prescribed by law, with the Clerk of the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days of rendition of this order, in accordance with Rule 9.110, Fla. R. App. P., and section 120.68, Florida Statutes.

Certificate of Clerk:

Filed in the office of the Clerk of the
the Department of Management Services
on this 16th day of November, 2010.



Agency Clerk