

STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

**FILED**  
FEB 17 2015

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 14F-10185

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION  
CIRCUIT: 09 Osceola  
UNIT: AHCA


RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 14, 2015, at approximately 10:04 a.m.

**APPEARANCES**

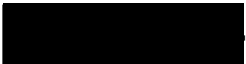
For Petitioner:  Petitioner's mother

For Respondent: Dortha Rouse, RN Specialist/Fair Hearings Coordinator,  
Agency for Healthcare Administration

**STATEMENT OF ISSUE**

Whether the Agency was correct in denying Petitioner's request for desensitizing medicament, periodontal scaling, and root planing.

**PRELIMINARY STATEMENT**

Petitioner's mother,  represented Petitioner. Doretha Rouse, Registered Nurse Specialist, represented the Agency. Mae James, Team Lead with

Staywell and Dr. Denton Burch, Dental Consultant with Liberty Florida, appeared as witnesses.

Petitioner's second issue, denial of braces, was determined on the record to be not ripe for appeal. The Agency has not yet received a request for braces to deny, so there is no decision available for the hearing officer to review.

Respondent admitted one exhibit into evidence, which was entered as Respondent's exhibit 1. Petitioner submitted no evidence. Administrative notice was taken of the Medicaid Provider General Handbook.

#### **FINDINGS OF FACT**

Based on the oral and documentary evidence presented at the fair hearing and on the entire record of this proceeding, the following Findings of Fact are made:

1. Petitioner is a Medicaid recipient over 21 years of age. He has some developmental delays. He has other illnesses such as asthma and meningitis.
2. Petitioner has periodontal disease. As a result, his dentist submitted a prior authorization request to Petitioner's managed care plan, Staywell. Liberty Dental Plan handles the prior authorization reviews for Staywell members.
3. Staywell, by notice dated November 11, 2014, denied Petitioner's request for application of desensitizing medicament, periodontal scaling, and root planing (effectively a deep cleaning). The request was denied because these procedures are not a covered benefit for Medicaid recipients over 21 years old.
4. The dental consultant witness did not consider the request to fall under emergency medical care, but rather maintenance care.

5. Petitioner's mother worries that the dental issues, if left untreated, will progress and become life threatening due to Petitioner's other health illnesses. Additionally, she noted he has already been on antibiotics.

#### CONCLUSIONS OF LAW

6. By agreement between the Agency for Health Care Administration (AHCA) and the Department of Children and Families, AHCA has conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to Chapter 120.80, Florida Statutes.

7. This is a final order pursuant to Sections 120.569 and 120.57, Florida Statutes.

8. This hearing was held as a de novo proceeding pursuant to Florida Administrative Code Rule 65-2.056.

9. In accordance with Florida Administrative Code Rule 65-2.060(1), the burden of proof was assigned to the Petitioner. The standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence, as provided by Florida Administrative Code Rule 65-2.060(1).

10. According to page 2-3 of the Medicaid Dental Services Coverage and Limitations Handbook, Medicaid covers some dental services for adults over 21. This Handbook is promulgated into law by Rule 59G-4.060(2), Florida Administrative Code. According to the Handbook, Medicaid will cover dentures and denture related procedures, as well as:

...medically-necessary emergency dental procedures to alleviate pain and/or infection for eligible adults... Emergency dental care shall be limited to emergency problem-focused evaluations, necessary radiographs to make a diagnosis, extraction, and incision and drainage of abscess.

11. The question becomes whether Petitioner's request for services is a medically-necessary emergency dental procedure to alleviate pain and/or infection. Florida Administrative Code, 59G-1.010(166), defines medical necessity, as follows:

"Medically necessary" or "medical necessity" means that the medical or allied care, goods, or services furnished or ordered must:

(a) Meet the following conditions:

1. Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;
2. Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs;
3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;
4. Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide; and
5. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

(c) The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.

12. There is no evidence against the dental consultant's opinion that this is a maintenance service rather than an emergency service. Petitioner's assertion that not having this service is a life threatening matter is not supported by any legally competent evidence. Cleaning services are not a covered benefit for adults over 21, such as Petitioner.

### **DECISION**

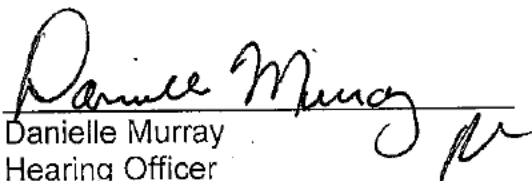
Based upon the foregoing Findings of Fact and Conclusions of Law, Petitioner's appeal is DENIED, and the Agency's action is affirmed.

**NOTICE OF RIGHT TO APPEAL**

This decision is final and binding on the part of the agency. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308-5403. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 17<sup>th</sup> day of February, 2015,

in Tallahassee, Florida.



Danielle Murray  
Hearing Officer  
Building 5, Room 255  
1317 Winewood Boulevard  
Tallahassee, FL 32399-0700  
Office: 850-488-1429  
Fax: 850-487-0662  
Email: Appeal.Hearings@myflfamilies.com

Copies Furnished To [REDACTED] Petitioner  
Judy Jacobs, Area 7, AHCA Field Office