

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

FILED

MAR 06 2015

**OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES**



APPEAL NO. 14F-10431

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 11 Dade
UNIT: AHCA

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 27, 2015, at 1:40 p.m.

APPEARANCES

For the Petitioner: [REDACTED], the petitioner's mother.

For the Respondent: Mara Perez, Senior Program Specialist, Agency for Health Care Administration (AHCA).

STATEMENT OF ISSUE

At issue is the Agency's action through DentaQuest to deny the petitioner's request for reimbursement of privately paid dental procedures.

PRELIMINARY STATEMENT

Present as witnesses for the respondent were Jacqueline Salcedo, Grievance and Appeals Specialist and Dr. Frank Manteiga, Dental Director, both from DentaQuest.

The respondent submitted into evidence Respondent Exhibits 1 through 4. The petitioner submitted into evidence Petitioner Exhibit 1.

FINDINGS OF FACT

1. The petitioner is seventeen years of age and is a Medicaid recipient living in Miami-Dade County, Florida. The petitioner has Williams Syndrome which affects him physically and developmentally. He has had dental problems since birth. The petitioner became a DentaQuest member in December 2012.

2. The petitioner underwent dental procedures in February 2014 through March 2014. He underwent additional dental procedures in April 2014. The above two procedures were completed by different dentists. The first procedure cost a total of \$7,085. The second procedure cost a total of \$2,450. Both were paid privately by the petitioner's mother.

3. The petitioner's representative indicated that when she discovered the petitioner was enrolled in DentaQuest, she submitted the already paid dental bills to DentaQuest to get reimbursed for her payment of the dental bills.

4. On September 10, 2014, DentaQuest sent the petitioner a Notice advising him: "Your request for a refund for services paid to [REDACTED] and [REDACTED] has been denied due to services were provided by a non-participating provider. Refund will only be considered when services are rendered by a participating provider with DentaQuest."

Additionally, the respondent witness indicated that neither of the dentist that provided the services to the petitioner are Medicaid providers.

5. The respondent's witness, Dr. Manteiga, reiterated the reason for the denial of the request as noted above and indicated that no clinical or medically necessary decision was made by DentaQuest.

6. The petitioner's representative indicated that early on in 2012, she was getting these notices from DentaQuest that apparently showed the petitioner was eligible for Medicaid related dental care. She indicated that when she called DentaQuest to inquire about this eligibility, she was told that the petitioner was not actually enrolled in the dental program with them. She indicated that the above scenario kept occurring for each month after that.

7. The petitioner's representative also indicated that based on the petitioner's dental problems, his weight, and other medical problems associated with his condition, she decided to find a dentist who could work with the petitioner. She indicated that she finally found a dentist and an orthodontist, who was able to "treat" the petitioner. Thus, all of the dental work was completed as noted above.

8. The petitioner's representative also indicated that when someone from DentaQuest contacted her in April 2014 to let her know that the petitioner was enrolled in that dental program, the petitioner was still undergoing treatment with the other dentist(s). She also indicated that it would not have been wise for her to change the petitioner's dentist to a DentaQuest dentist at that time as the petitioner and the

dentist(s) had a good working relationship. The petitioner currently does not have a DentaQuest dentist.

9. The petitioner's representative argued that the petitioner had a medically necessary situation to have the dental work. He apparently did not know he was enrolled in a Medicaid type dental program, thus the paid dental expenses should be reimbursed.

10. The respondent's witnesses and representative argued that the petitioner was not treated by a dentist or orthodontist who is a Medicaid provider or a certified dentist offered through the "Plan", thus the request for the reimbursement has been properly denied.

CONCLUSIONS OF LAW

11. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat.

12. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

13. In accordance with Fla. Admin. Code R. 65-2.060 (1), the burden of proof was assigned to the petitioner.

14. Federal Medicaid Regulations found at 42 C.F.R. § 447.25 "Direct payments to certain beneficiaries for physicians' or dentists' services" states in part:

(a) Basis and purpose. This section implements section 1905(a) of the Act by prescribing requirements applicable to States making direct payments to certain beneficiaries for physicians' or dentists' services.

(b) State plan requirements. Except for groups specified in paragraph (c) of this section, a State may make direct payments to beneficiaries for physicians' or dentists' services. If it does so, the State plan must—

- (1) Provide for direct payments; and
- (2) Specify the conditions under which payments are made.

15. The conditions under which direct payments can be made is reflected in Fla.

Admin. Code R. 59G-5.110, "Claims Payment" which states in relevant part:

(1)(a) The agency provides eligible individuals with access to Medicaid services and goods by direct payment to the Medicaid provider upon submission of a payable claim to the fiscal agent contractor. Except as provided for by law or federal regulation, payments for services rendered or goods supplied shall be made by direct payment to the provider except that payments may be made in the name of the provider to the provider's billing agent if designated in writing by the provider. **Direct payment may be made to a recipient who paid for medically necessary, Medicaid-covered services received from the beginning date of eligibility (including the three-month retroactive period) and paid for during the period of time between an erroneous denial or termination of Medicaid eligibility and a successful appeal or an agency determination in the recipient's favor [emphasis added].**

The services must have been covered by Medicaid at the time they were provided. Medicaid will send payment directly to the recipient upon submission of valid receipts to the Agency for Health Care Administration. All payments shall be made at the Medicaid established payment rate in effect at the time the services were rendered. Any services or goods the recipient paid before receiving an erroneous determination or services for which reimbursement from a third party is available are not eligible for reimbursement to the recipient.

16. The Dental Services Coverage and Limitations Handbook- November 2011

is incorporated by reference into Chapter 59G-4, Fla. Admin. Code and states on pages

2-15 and 2-16:

Prior authorization is required for all orthodontic services.

Orthodontic procedures may be reimbursed only when provided by specialty trained orthodontists and pediatric dentists who are enrolled in the Medicaid program.

17. As shown in the Findings of Fact, the Agency through DentaQuest denied the petitioner's request for reimbursement of privately paid dental expenses because the services were provided by non-participating providers.

18. The petitioner's representative argued that the petitioner was in need of the dental work for health reasons and was unaware he was enrolled with DentaQuest. Therefore, he should be reimbursed for the direct dental payments provided.

19. The respondent argued that the decision for denying the request is correct as indicated on the notice provided to the petitioner.

20. For the case at hand, the evidence provided shows that the petitioner received dental treatment from non-Medicaid providers who are also non-participating providers under the DentaQuest Plan. The above cited authority makes clear that payment for services are to be made to Medicaid providers. The evidence as provided also shows that the petitioner acquired the dental treatment without first receiving prior authorization of the treatment through Medicaid, albeit the petitioner's representative indicated she believed the petitioner was not Medicaid eligible. Additionally, as required by the above noted Rule, the evidence presented does not show that the Agency made an erroneous denial or termination of Medicaid eligibility in this case to allow for direct reimbursement to the petitioner for the requested dental bills. Based on this, the hearing officer agrees with the respondent's arguments.

21. After considering the evidence and all of the appropriate authorities set forth in the findings above, the hearing officer concludes that the petitioner has not met his burden of proof, and the Agency action to deny the petitioner's request for reimbursement of privately paid dental expenses is correct.

DECISION

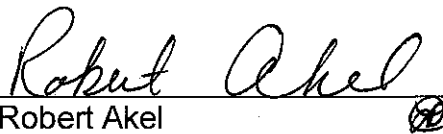
Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is denied and the Agency action affirmed.

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 6th day of March, 2015,

in Tallahassee, Florida.



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FINAL ORDER (Cont.)

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Copies Furnished To: [REDACTED] Petitioner

Rhea Gray, Area 11, AHCA Field Office Manager