

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

FILED

MAR 11 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 14F-10576

PETITIONER,

Vs.

AGENCY FOR HEALTH
CARE ADMINISTRATION
CIRCUIT: 01 Escambia
UNIT: AHCA

RESPONDENT.

_____ /

AMENDED FINAL ORDER

This amended order is issued to correct the Final Order issued on March 10, 2015 erroneously file stamped with February 10, 2015. All other information remains the same.

Pursuant to notice, the undersigned convened an administrative hearing in the above-referenced matter on February 13, 2015 at 10:41am in Pensacola, Florida.

APPEARANCES

For the Petitioner:



For the Respondent:

Cindy Henline, Medical Health Care Program Analyst

STATEMENT OF ISSUE

At issue is whether the respondent's action denying the petitioner's request for a partial lower denture was correct.

PRELIMINARY STATEMENT

The petitioner presented one document to be included as evidence. This was admitted as Petitioner's Exhibit 1.

Present for respondent from Humana were grievance appeal specialists, Mindy Aikman and Karen Curnutt. Present from DentaQuest were Dr. Daniel Darrego, dental director, and DeeDee DeLaCruz, complaint and grievance specialist. The respondent provided information which was entered as Respondent Exhibit 1. Information prepared by Humana was received and entered as Respondent Exhibit 2.

FINDINGS OF FACT

Based on the oral and documentary evidence presented at the final hearing and on the entire record of this proceeding, the following findings of fact are made:

1. Petitioner is a 60 year old female with a date of birth of [REDACTED]

At all times relevant to this proceeding, petitioner was eligible to receive Medicaid services.

2. The petitioner is enrolled with Humana. Humana is a Health Maintenance Organization (HMO) which is contracted by the respondent to provide services, including adult dental services, to certain Medicaid recipients in Florida.

3. DentaQuest administers Humana's dental program. When a Humana enrollee requests a dental procedure, staff at DentaQuest determines if the service is medically necessary.

4. Both Humana and DentaQuest must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook.

5. On November 12, 2014, DentaQuest received from the petitioner's dentist, [REDACTED] a prior authorization request for a partial upper denture (D5213) and a partial lower denture (D5214).

6. On November 17, 2014, DentaQuest partially approved the request by approving the petitioner for a partial upper denture.

7. On November 17, 2014, a denial letter was sent to the petitioner. The correspondence stated, in part:

Humana will not cover the care you are asking for because:

CODE: D5214 partial lower denture

Denial Reason: You still have enough teeth to properly chew your food, therefore, you do not qualify for a partial denture. We have told your dentist this also. Please talk to your dentist about your choices to treat your teeth.

8. On December 10, 2014 the petitioner contacted the Office of Appeal Hearings to request a fair hearing.

9. The petitioner previously had gastric bypass surgery. The petitioner reports she has not been able to chew her food sufficiently so that her body can process the food. The petitioner was in the hospital for seven days in October due to an impaction caused by food that was not chewed or digested properly.

10. The documentation furnished by the petitioner did not address the reason for admission to the hospital; it did not indicate any recommendation by the treating physician for prevention of the recurrence.

11. The petitioner understands from consultations with her doctor that undigested food was partially caused by not chewing her food properly. She was

advised that without her teeth she will be back in the hospital due to impaction. She currently purees her food to try to avoid another hospitalization.

12. The provider must have prior authorization before billing Medicaid for dentures.

13. Dr. Darrego explained to be considered to have a stable bite and ability to chew a person must have teeth to make eight points of occlusion (how the teeth close together). The points of contact can be natural tooth to natural tooth, natural tooth to prosthetic or prosthetic to prosthetic. He further explained that each tooth has multiple points of contact with the opposing tooth. Without a stable bite & masticator function, the regulations would consider it medically necessary to receive a partial denture.

14. In this instant case, the petitioner has been approved for the upper partial. With the upper partial, the petitioner has the following pairings of teeth (prosthetic upper to lower natural) 4 to 29, 5 to 28, 12 to 21, and 13 to 20. These are not considered the front teeth but posterior teeth.

15. Dr. Darrego expressed the issue for this case is the partial denture needed for functional mastication (chewing) and a stable bite. The need for the partial denture has to fall within the range of the guidelines as set forth by the agency. The number of teeth being replaced is not at issue.

16. Dr. Darrego further explained the request for the lower partial denture did not include any information regarding the petitioner's other health conditions or problems with chewing that are leading to gastric issues. No supplemental documentation has been submitted since the denial of the denture. It is possible that if the dentist resubmitted the request with a letter from the physician explaining the

medical problems the petitioner has from the difficulty in completely chewing her food, there could be different results.

CONCLUSIONS OF LAW

17. 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 §120.80 Fla. Stat.

18. This is a final order pursuant to Fla. Stat. § 120.569 and § 120.57.

19. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code § 65-2.056.

20. The burden of proof is assigned to the petitioner. The standard of proof in an administrative hearing is by a preponderance of the evidence. (See Fla. Admin. Code R. 65-2060(1).) The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed.).

21. The Florida Medicaid program is authorized by Fla. Stat. ch 409 and Fla. Admin. Code § 59G. The Medicaid program is administered by the respondent.

22. Fla. Stat. § 409.912 "Cost-effective purchasing of health care" states in relevant part:

Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care ...

(3) The agency may contract with health maintenance organizations certified pursuant to part I of chapter 641 for the provision of services to recipients. This subsection expires October 1, 2014.

23. The Florida Medicaid Provider Handbook (Provider Handbook) is incorporated by reference in the Medicaid Services Rules found in Fla. Admin. Code

Chapter 59G-4. In accordance with the above Statute, the Provider Handbook states on page 1-27:

Medicaid contracts with Health Maintenance Organizations (HMOs) to provide prepaid, comprehensive, cost-effective medical services to enrolled Medicaid recipients.

Medicaid pays each HMO a monthly capitation fee for managing and providing care to each enrolled recipient. In accordance with certain contractual agreements with Medicaid, the HMO provides a specified, comprehensive package of medical services for this monthly Medicaid fee.

24. Page 1-30 of the Provider Handbook states, "An HMO's services cannot be more restrictive than those provided under Medicaid fee-for-service."

25. The Florida Medicaid Provider Dental Services Coverage and Limitations Handbook (Dental Handbook) – November 2011 is incorporated by reference in the Medicaid Services Rules found in Fla. Admin. Code R. 59G-4.060.

26. The Dental Handbook states "Medicaid reimburses for services that are determined medically necessary ..."

27. Fla. Admin Code § 59G-1.010 "Definitions" states in relevant part:

(166) '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.

28. The Dental Handbook states on page 2-3:

Covered Adult Services (Ages 21 and over):

The adult dental program provides for the reimbursement of full and removable partial dentures. Extractions and other surgical procedures essential to the preparation of the mouth for dentures are reimbursable if the patient is to receive dentures. Procedures relating to dentures such as repairs, relines and adjustments are reimbursable.

Medicaid will reimburse for medically-necessary emergency dental procedures to alleviate pain and or infection for eligible adult Medicaid recipients 21 years of age or older. Emergency dental care shall be limited to emergency problem-focused evaluations, necessary radiographs to make a diagnosis, extraction, and incision and drainage of abscess.

29. Petitioner's current dental status does not rise to the above definition of emergency dental care.

30. In regard to a partial denture, on pages 2-30 through 2-31 the Dental Handbook states in part:

For all eligible Medicaid recipients, Medicaid may reimburse for the fabrication of full and removable partial dentures ...

The standard for all dentures, whether seated immediately after extractions or following alveolar healing, is that the denture be fully functional.

...
Partial dentures refer to the prosthetic appliance that replaces missing teeth and is on a framework that is removed by the patient. Prior authorization is required for reimbursement of removable partial dentures and must be submitted to the dental consultant for determination of medical necessity prior to the procedure being performed.

31. Dental professionals from DentaQuest state that the petitioner is considered to have a stable bite and ability to chew her food with the upper denture and her remaining natural teeth.

32. The burden of proof in this matter is vested with the petitioner. Petitioner must establish, by the required evidentiary standard, that the partial denture is medically necessary. To do so, each condition of medical necessity must be satisfied.

33. A hearing officer must consider all evidence; judge the credibility of witnesses; draw permissible inferences from the evidence; and reach findings of fact based on competent substantial evidence. After reviewing evidence and testimony on a comprehensive basis, petitioner has not demonstrated the partial denture is medically necessary. The following conditions of medical necessity have not been satisfied:

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;

34. Should the petitioner desire, a new prior authorization can be submitted to the respondent for review. The prior authorization should contain information regarding the affect of the missing teeth on her digestive capabilities. If dissatisfied with any future decision, petitioner can pursue hearing rights associated with that decision.

DECISION

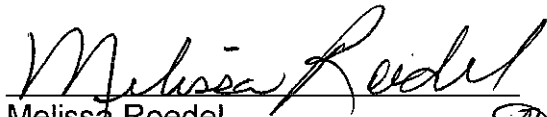
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is denied.

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 11th day of March, 2015,

in Tallahassee, Florida.



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