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

FILED
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OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

[redacted]

APPEAL NO. 14F-10688

PETITIONER,

Vs.

AGENCY FOR HEALTH
CARE ADMINISTRATION
CIRCUIT: 15 Palm Beach
UNIT: AHCA

RESPONDENT.

_____/

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 23, 2015 at 11:08 a.m.

APPEARANCES

For the Petitioner: [redacted]
Petitioner's Son

For the Respondent: Carol King, Registered Nurse Specialist
Agency for Health Care Administration (AHCA)

ISSUE

At issue is whether petitioner's request for partial upper (procedure D5213) and lower (procedure D5214) dentures was improperly denied by the respondent.

PRELIMINARY STATEMENT

The petitioner was not present but represented by his son. Petitioner's exhibit "1" was entered into evidence.

Ms. King appeared as both a representative and witness for the respondent. Present for respondent from Molina Healthcare of Florida (Molina) were Natalie Fernandez, Government Contract Specialist and Alice Quiros, ABP of Government Contracts. Present from DentaQuest were Dr. Susan Hudson, Dental Director and Bibi Delacruz, Complaint and Grievance Specialist. Respondent's exhibit "1" was entered into evidence.

Hearing Officer's exhibit "1" was also entered into evidence.

Administrative notice was taken of Florida Statutes § 409.965; § 409.971; § 409.972; § 409.973; Fla. Admin. Code Rules 59G- 1.010; 59G-4.060; 59G-4.002; the Dental Services Coverage and Limitations Handbook; and the Dental General Fee Schedule (January 1, 2014).

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 was, at time of hearing, 89 year of age. His birth date is [redacted] At all times relevant to this proceeding, petitioner was eligible to receive Medicaid services.

2. Petitioner receives Medicaid services through the Statewide Medicaid Managed Care Program. Molina is the managed care entity which provides petitioner's Medicaid services. Petitioner became a Molina plan member on August 1, 2014.

3. Prior to August 1, 2014 petitioner's services were through the Medicaid State Plan. On May 1, 2014 petitioner's request for partial upper and lower dentures was

reviewed, on behalf of the Medicaid State Plan, by eQHealth Solutions (eQ). On May 3, 2014 a notice was issued approving procedures D5213 and D5214.

4. The above approval was valid through August 28, 2014. Due to medical issues, petitioner was unable to secure the dentures prior to the expiration of the authorization.

5. DentaQuest is Molina's dental vendor. In this capacity, all dental requests by Molina members are reviewed by a DentaQuest reviewer. DentaQuest determines whether the requested procedure is medically necessary and in compliance with pertinent rules and regulations.

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

7. On September 10, 2014, DentaQuest received from petitioner's dentist an x-ray and prior authorization request for:

- Upper Arch partial denture (Procedure D5213)
- Lower Arch partial denture (Procedure D5214)

8. On September 12, 2014 a denial notice was issued to the petitioner. The notice stated, in part:

> Your dentist has asked to replace some of your missing teeth. The x-rays must show that the teeth still in your mouth needed for this service are healthy. Your remaining teeth are not healthy because they have large cavities or not enough bone support so this services in not medically necessary.

9. The above notice also stated should the petitioner disagree with the decision, an internal appeal could be requested within 30 calendar days.

10. An internal appeal was timely requested.

11. A DentaQuest dentist thereafter reviewed all submitted information. On October 30, 2014 a notice was issued upholding the original decision.

12. On December 10, 2014 the Office of Appeal Hearings received petitioner's requested for a fair hearing.

13. Dr. Hudson asserts that, based on the submitted x-rays, the upper arch has only one tooth out of seven that would support the partial. The seven teeth have at least 50% bone loss and have various levels of decay. The lower arch has three teeth with more than 50% bone loss and some decay.

14. Due to bone loss and decay, Dr. Hudson asserts the long term prognosis for petitioner's success with the partial dentures is very limited.

15. Respondent acknowledges the approval by eQ. The approval was issued on May 1, 2014. Respondent asserts petitioner's dental condition most likely changed during the four months between the eQ approval and the DentaQuest determination.

16. Petitioner believes the x-rays reviewed by eQ might be the same as submitted to Molina. Additionally, the referring dentist believed sufficient bone structure in surrounding teeth existed to support the partials.

17. Respondent countered that the x-rays submitted for review show too much bone loss and decay to warrant approval of partial dentures. Petitioner might, however, be eligible for full dentures.

CONCLUSIONS OF LAW

18. By agreement between the Agency for Health Care Administration 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.

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

20. This hearing was held as a *de novo* proceeding pursuant to Fla. Admin. Code R. 65-2.056.

21. 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.).

22. The Florida Medicaid Provider General Handbook (Provider Handbook) – July 2012 is incorporated by reference in the Medicaid Services Rules found in Fla. Admin. Code R. 59G-4. 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. Medicaid HMOs are also required to provide quality and benefit enhancements and can provide other expanded benefits as described in this section.

23. Page 1-30 of the Provider Handbook continues by stating: "An HMO's services cannot be more restrictive than those provided under Medicaid fee-for-service."

24. 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.

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

26. The definition of "medically necessary" is found in the Fla. Admin. Code R. 59G-1.010, which states, in 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.

27. 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.

28. Neither testimony nor documentary evidence establish petitioner's dental status rises to the above definition of emergency dental care.

29. In regard to partial dentures, 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 medically necessity prior to the procedure being performed.

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

31. 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.

32. The undersigned finds the testimony of Dr. Hudson credible. Evidence does not support that, at the time of request, the placement of upper and lower partials would be successful. Due to bone loss and decay, the prospect of the partial dentures being functional is suspect.

33. Petitioner has not demonstrated, by the greater weight of the evidence, that proper bone support exists and the surrounding teeth are healthy enough to anchor an upper and lower partial. It is also noted that decay would most likely compromise the functionality of the partial dentures.

34. After reviewing evidence and testimony on a comprehensive basis, petitioner has not demonstrated the partial dentures are, at time of request, 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;
>
> 3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;

35. If desired, petitioner can pursue a request for full dentures.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the petitioner's 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 6th day of March, 2015,

in Tallahassee, Florida.

Frank Houston
Hearing Officer
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Copies Furnished To: [redacted], Petitioner
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