

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

FILED

MAY 13 2015

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 15F-00313

PETITIONER,

Vs.

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

RESPONDENT.

FINAL ORDER

Pursuant to notice, a telephonic administrative hearing was convened in this matter before the undersigned hearing officer on February 4, 2015 at 11:34 a.m.

APPEARANCES

For the Petitioner: Pro se

For the Respondent: Dianna Chirino,
Senior Human Services Program Specialist,
Agency for Health Care Administration

ISSUE

The Petitioner is appealing the Agency for Health Care Administration's (AHCA's) decision to deny the Petitioner's request for the following dental services: resin-based composite-two surfaces, posterior (tooth 12, 21, and 22); resin-based composite-three surfaces, posterior(tooth 13); crown-porcelain fused to predominantly base metal (tooth 14); Amalgam-one surface, primary or permanent (tooth 15); partial upper denture and partial lower denture; periodontal scaling for upper and lower left and right quadrants.

PRELIMINARY STATEMENT

Appearing as a witness from the Petitioner's managed care plan, Magellan, was Lenny Burgos, Appeals Manager. Appearing as witnesses from DentaQuest were Jackelyn Salcedo, Compliance Officer and Dr. Dorrego, Dental Director.

Sitting in as observers, without objection from the Petitioner, were Audrey Cohen, Contract Manager and Gabriella Cora, Medical Director from Magellan; and Susan Brinson, Program Operations Administrator from Area 10 Agency for Health Care Administration (AHCA).

Respondent entered 11 exhibits into evidence which were marked Respondent Exhibits A and B and Exhibits 1-9.

The Petitioner entered a nine page document into the record which was marked as Petitioner Exhibit 1, without objection.

Prior to the proceedings, Magellan issued an "appeal determination" notice to the Petitioner on December 22, 2014 advising the Petitioner that the request for upper and lower partial dentures, as well as the periodontal scalings, were approved. The denied services remaining to be addressed in this appeal include: procedure code D2392-resin based composite-two surfaces, posterior (tooth 12, 20, and 21); procedure code D2393-resin based composite-three surfaces-posterior (tooth 13); procedure code D2751-crown porcelain fused to predominantly base metal (tooth 14) and procedure code D2140-Amalgam one surface, primary or permanent (tooth 15).

FINDINGS OF FACTS

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. The Petitioner is a 26 year-old Medicaid recipient enrolled with Magellan, a Florida Health Managed Care provider. Dental services for Magellan enrollees are provided through DentaQuest of Florida.

2. Magellan requires prior authorization for services related to dentures and requires that the dental work be performed by a participating provider within the Magellan (and/or DentaQuest) provider network.

3. The Petitioner's dentist submitted a request for prior authorization for procedure code D2392-resin based composite-two surfaces, posterior (tooth 12, 20, and 21); procedure code D2393-resin based composite-three surfaces-posterior (tooth 13); procedure code D2751-crown porcelain fused to predominantly base metal (tooth 14) and procedure code D2140-Amalgam one surface, primary or permanent (tooth 15). The request was received by DentaQuest on November 18, 2014.

4. DentaQuest initially denied the authorization request for these procedures on November 21, 2014. On December 22, 2014 DentaQuest issued its appeal determination upholding the denial of the procedures. The reason provided for the denial of each of the procedures was the service is not covered.

5. The Petitioner timely filed her hearing request on January 7, 2015.

6. The Petitioner stated she needs these procedures done on her teeth or their condition will continue to get worse.

7. The Respondent testified that the restorative procedures were denied because they are not covered services for adult Medicaid members.

CONCLUSIONS OF LAW

8. By agreement between the Agency for Health Care Administration and the Department of Children and Families, the Agency for Health Care Administration has

conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to Chapter 120.80 Florida Statutes.

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

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

11. Florida Statutes 409.971 – 409.973 establishes the requirement for Medicaid recipients to be enrolled in the statewide managed medical assistance program and the minimum benefits the managed care plans shall cover. Dental services are one of the mandatory services that must be provided.

12. § 409.912, Fla. Stat., also provides that the Agency may mandate prior authorization for Medicaid services.

13. Fla. Admin. Code R. 59G-1.010 defines “prior authorization” as:

(226) “Prior authorization” means the approval by the Medicaid office for a Medicaid provider, or by a prepaid health plan for its affiliated providers, to deliver Medicaid covered medical or allied care, goods, or services in advance of the delivery of the care, goods, or services.

14. Fla. Admin. Code R. 59G-1.010 (166) also provides...

“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.

(b) "Medically necessary" or "medical necessity" for inpatient hospital services requires that those services furnished in a hospital on an inpatient basis could not, consistent with the provisions of appropriate medical care, be effectively furnished more economically on an outpatient basis or in an inpatient facility of a different type.

(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.

15. The Florida Medicaid Dental Services Coverage and Limitations Handbook- November 2011 (Handbook), incorporated by reference into Chapter 59G-4, Fla. Admin. Code, sets standards for covered adult dental services (ages 21 and over) and states on page 1-2:

The adult Medicaid dental services program provides medically-necessary, emergency dental procedures to alleviate pain or infection to eligible Medicaid recipients age 21 and older. Emergency dental care for recipients 21 years of age and older is limited to a problem focused oral evaluation, necessary radiographs in order to make a diagnosis, extractions, and incision and drainage of an abscess. Full and removable partial dentures and denture-related services are also covered services of the adult dental program.

16. The Dental General Fee Schedule published by the Agency for Health Care Administration indicates that the maximum age for procedures D2140, D2392, D2393 and D2751 is twenty years old. They are not covered services for the Petitioner and Respondent provided documentation of Medicaid's dental limitations in support of their decisions. Additionally, the evidence failed to show that the requested procedures are

emergency dental procedures to alleviate pain or infection as required by the above cited authority.

DECISION

Based on the evidence presented at the final hearing and on the entire record of this proceeding, the Agency for Health Care Administration acted correctly when it denied the restorative dental procedures D2140, D2392, D2393 and D2751. The Petitioner failed to meet her burden of proof. Therefore, her appeal is hereby 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 agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 13th day of May, 2015,

in Tallahassee, Florida.

Warren Hunter

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Copies Furnished To: [REDACTED] Petitioner
Rhea Gray, Area 11, AHCA Field Office Manager