

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

FILED

MAR 31 2015

OFFICE OF APPEAL HEARING
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-00858

PETITIONER,

Vs.

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

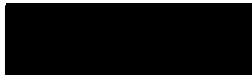
RESPONDENT.

FINAL ORDER

Pursuant to notice, a telephonic administrative hearing was convened in this matter before the undersigned hearing officer on February 23, 2015 at 11:34 a.m.

APPEARANCES

For the Petitioner:



Mother

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 four requests for dental procedure D9630, Drugs and/or Medicaments.

PRELIMINARY STATEMENT

Appearing as Respondent witnesses from the Petitioner's managed care plan United Healthcare was: Susan Frishman, Senior Compliance Analyst; Bill Marks, Account Manager for Dental Programs; Deborah Bond, Director of Government Dental Programs; and Dr. Carl Gong.

Petitioner appeared, along with his mother, [REDACTED] who represented him and provided testimony on his behalf.

Respondent entered five exhibits into evidence which were marked Respondent Exhibits 1-5.

Four requests for dental procedure D9630, drugs and/or medicaments, was submitted in conjunction with a request for tooth extraction (procedure code D7210) for tooth number 1,16,17 and 32. United Health Care approved the four extractions. The extractions, however, have not been done for the antibiotics identified are allegedly needed for the extractions.

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 19 year-old Medicaid recipient enrolled with United Healthcare, a Florida Health Managed Care provider.
2. United Healthcare requires prior authorization for services related to dental care and requires that the dental work be performed by a participating provider within the United Healthcare provider network.

3. The Petitioner's dentist submitted four requests for prior authorization for procedure code D9630-drugs and/or medicaments along with his request for procedure code D7210-extraction for tooth number 1,16, 17 and 32. The D9630 requests were for an antibiotic that was to be administered to the gum area for each extracted tooth to avoid infection.

4. The Petitioner testified that the oral surgeon advised that the extractions could not be done without having the antibiotic applied after the teeth were removed.

5. The Respondent's physician witness explained that procedure D9630 was not a covered dental service and that the use of an antibiotic without the presence of an infection is not medically necessary. For these two reasons, the request for procedure code D9630 was denied.

6. The Respondent advised that the oral surgeon could submit a prescription for the antibiotic through the pharmacy program and it would likely be approved.

CONCLUSIONS OF LAW

7. 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.

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

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

10. 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.

11. § 409.912, Fla. Stat. also provides that the Agency may mandate prior authorization for Medicaid services.

12. 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.

13. 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.

14. Because the petitioner is under twenty-one-years-old, the requirements of Early and Periodic Screening, Diagnostic, and Treatment services (EPSDT) must be considered. Florida Statute § 409.905, Mandatory Medicaid services, provides that Medicaid services for children must include:

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.--The agency shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and provide treatment to correct or ameliorate these problems and conditions. These services include all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

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 dental services and states on page 1-1:

The purpose of the dental program is to provide dental care to recipients under the age of 21 years, emergency dental services to recipients age 21 and older, and denture and denture-related services and oral and maxillofacial surgery services to all Medicaid-eligible recipients.

16. The Dental General Fee Schedule published by the Agency for Health Care Administration indicates what dental procedure codes are covered by Medicaid. Procedure code D9630 is not listed in the fee schedule, thus indicating that it is not

covered by Medicaid. This, by itself, is not sufficient cause to deny the procedure for a member who is under 21 years of age due to the EPSDT requirement.

17. While the Petitioner testified that the oral surgeon advised that the antibiotic was necessary, before the four teeth could be extracted, the Respondent explained that the request for an antibiotic without the presence of an infection did not establish medical necessity. For EPSDT requirements, medical necessity still must be determined in order for the procedure to be approved.

18. The Respondent suggested the oral surgeon submit a prescription for the antibiotic through the pharmacy program. The undersigned advised the Petitioner that the submission of a prescription is a separate action from the current matter under appeal, and he could appeal that action if he so desired, when a decision is made by the Respondent.

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, and within the EPSDT requirements, when it denied the drug and/or medicament dental procedure code D9630. The Petitioner failed to meet his burden of proof. Therefore, his 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

FINAL ORDER (Cont.)

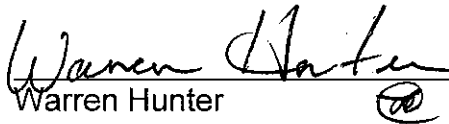
15F-00858

PAGE - 7

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 31st day of March, 2015,

in Tallahassee, Florida.



Warren Hunter
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal_Hearings@dcf.state.fl.us

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