

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

**FILED**

JUN 08 2015

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 15F-02535

PETITIONER,

Vs.

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


RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on April 21, 2015 at 10:00 a.m.

**APPEARANCES**

For the Petitioner:  Petitioner

For the Respondent: Monica Otolara, Senior Program Specialist  
Agency for Health Care Administration (AHCA)

**STATEMENT OF ISSUE**

At issue is whether the Respondent's denial of the Petitioner's request for dental services was correct. The petitioner has the burden of proving her case by a preponderance of the evidence.

**PRELIMINARY STATEMENT**

The Petitioner did not submit any documents as evidence for the hearing.

Appearing as witnesses for the Respondent were Dr. Susan Hudson, Dental Director, and Jacqueline Saucedo, Complaint and Grievances Specialist, from DentaQuest, which is the Petitioner's dental services organization. Also present as a witness for the Respondent was Karen Kornett, Grievance and Appeals Manager for Humana, which is Petitioner's managed health care organization.

Respondent submitted a package of documents totaling nineteen pages as evidence for the hearing, which was marked Respondent Exhibit 1. These documents consisted of the letter denying Petitioner's request for dental services, along with supporting documentation, and a letter from Petitioner's dentist which also included hand-written comments by the Petitioner.

Esperanza, with Propio Language Services, provided interpreter services for Petitioner who is Spanish speaking.

**FINDINGS OF FACT**

1. The Petitioner is an adult Medicaid recipient who is enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA) plan. She receives services under the plan from Humana, which utilizes DentaQuest for review and approval of dental services.
2. On or about March 5, 2015, the Petitioner's treating dentist (hereafter referred to as "the provider"), requested prior authorization from DentaQuest to perform the following procedures – periodontal scaling, root planing, and gingival irrigation on four

quadrants (upper right and left, lower right and left) . DentaQuest denied this request on March 6, 2015.

3. DentaQuest's denial notice to the Petitioner advised her that her requested services were denied as not being medically necessary since there was no noticeable bone loss or x-ray evidence of a hard substance built up on the roots of her teeth.

4. Petitioner's testimony centered on the denial of her request for an upper set of dentures. She stated she needs two sets of dentures (upper and lower) because she suffers from gastric reflux and needs to chew her food well to aid digestion. She also stated she grinds her teeth and this has affected her ability to chew food because her molars have become uneven.

5. The Respondent's expert witness, Dr. Hudson, testified that the denial of the Petitioner's request for the upper dentures was appropriate because she has ten upper teeth, which can be used for chewing. Dr. Hudson stated Petitioner is missing two molars on her upper right and two molars on her upper left. Dr. Hudson also stated Petitioner's request for a set of lower dentures has been approved, but those dentures have not yet been installed.

6. Services under the Medicaid State Plan in Florida are provided in accordance with the Respondent's Florida Medicaid Provider General Handbook ("Medicaid Handbook"), effective July 2012 and the Dental Services Coverage and Limitations Handbook ("Dental Handbook"), effective November 2011.

**PRINCIPLES OF LAW AND ANALYSIS**

7. 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 Chapter 120.80 Fla. Stat.
8. This is a final order pursuant to Fla. Stat. § 120.569 and § 120.57.
9. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.
10. The standard of proof in an administrative hearing is a preponderance of the evidence, in accordance with Rule 65-2.060 (1), Fla. Admin. Code. The preponderance of the evidence standard requires proof by “the greater weight of the evidence,” (Black’s Law Dictionary at 1201, 7<sup>th</sup> Ed.).
11. The Florida Medicaid Program is authorized by Chapter 409, Florida Statutes, and Chapter 59G, Florida Administrative Code. The Medicaid Program is administered by the Respondent. The Medicaid Handbooks are incorporated by reference in Chapter 59G-4, Florida Administrative Code.
12. Florida Statute § 409.912 requires that Respondent “purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care.” In addition, the statute provides that respondent must “operate or contract for the operation of utilization management and incentive systems designed to encourage cost-effective use of services and to eliminate services that are medically unnecessary.”
13. The Medicaid Handbook (the Dental Handbook) and Fla. Admin. Code R. 59G-1.010(166) define medical necessity as follows:

“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;
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.

14. Petitioner testified she needs both upper and lower dentures in order to chew her food properly. Respondent’s dental expert testified that upper dentures are not medically necessary for the Petitioner since she has ten upper teeth with which she can chew her food. Petitioner has been approved for lower dentures. Although the Petitioner’s treating dentist has requested the upper dentures and the other dental services, this does not in itself establish that these services are medically necessary according to the rule provisions outlined above.

15. Petitioner has not established by a preponderance of the evidence that her requested dental services are medically necessary as defined by Fla. Admin. Code R. 59G-1.010(166). After considering the evidence and relevant authorities set forth above, the undersigned concludes that the Petitioner has not met her burden of proof in establishing that the Respondent’s action was incorrect.

16. The undersigned notes that Petitioner's testimony only addressed the denial of her request for upper dentures, not the denial of the other services mentioned in the denial notice (periodontal scaling, root planing, and gingival irrigation). Accordingly, Petitioner has failed to meet her burden of proof with respect to the denial of those services as well.

**DECISION**

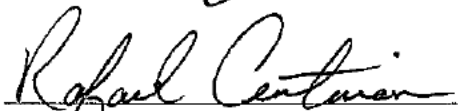
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is DENIED.

**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 agency has no funds to assist in this review, and any financial obligations incurred will be the Petitioner's responsibility.

DONE and ORDERED this 8<sup>th</sup> day of June, 2015,

in Tallahassee, Florida.



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