

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-02598

PETITIONER,

Vs.

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

RESPONDENT.

FINAL ORDER

Pursuant to notice, a telephonic administrative hearing in the above referenced matter was convened on May 1, 2015 at 9:13 a.m.

APPEARANCES

For the Petitioner:

  
Petitioner's Mother

For the Respondent:

Carol King  
Registered Nurse Specialist

ISSUE

At issue is whether respondent's denial of petitioner's request for orthodontic services (braces) was correct. The burden of proof is assigned to the petitioner.

**PRELIMINARY STATEMENT**

Present from Propio Language Services was Spanish/English translator #699.

Petitioner was not present but represented by her mother. No exhibits were entered into evidence.

Ms. King appeared as both the representative and witness for the respondent. Present from DentaQuest were Dr. Susan Hudson, Dental Consultant and Jackelyn Salcedo, Compliance and Grievance Specialist. Present from Molina Healthcare (Molina) was Natalie Fernandez, Government Contract Specialist. Respondent's exhibit "1" was accepted into evidence.

The record was held open through May 8, 2015 for respondent to provide: pertinent dental policy; clinical criteria utilized by DentaQuest; and the Initial Assessment Form (IAF) submitted by petitioner's orthodontist. Information was timely received and entered as Respondent's Exhibit "2". Administrative notice was taken of Florida Statutes §409.963; §409.965; §409.971; §409.972; §409.973; Florida Administrative Code R. 59G-1.010; 59G-4.060; 59G-4.002; and the Florida Medicaid Dental Services Coverage and Limitations Handbook (2011).

**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. The petitioner is 9 years of age with a birth date of [REDACTED].
2. Petitioner's Medicaid services are provided through the Statewide Medicaid Managed Care Program. Since August 1, 2014 her Medicaid services have been provided by Molina.

3. On February 27, 2015 petitioner's orthodontist, [REDACTED] submitted a prior authorization request for braces and orthodontic treatment. The request was submitted to Molina's dental vendor, DentaQuest.

4. Orthodontic procedures are available to Florida Medicaid recipients who are under the age of 21.

5. Dr. [REDACTED] submission included an IAF and dental x-rays.

6. The IAF is used to determine the severity of dental conditions, including the malocclusion of teeth. Scoring is assigned by both diagnostic observation and dental measurement.

7. An IAF score of "26" or more may indicate orthodontic treatment is warranted.

8. The treating dentist is not required to provide IAF scoring when one of the following conditions exist:

- Cleft palate deformities
- Deep impinging overbite. When lower incisors are destroying the soft tissue (more than an indentation)
- Crossbite of individual anterior teeth. When destruction of soft tissue is present
- Severe traumatic deviations
- Overjet greater than 9mm with incompetent lips or reverse overjet greater than 3.5 mm with reported masticatory and speech difficulties

9. For each of the above, the IAF directs the treating dentist to "Indicate an 'X' if present and score no further". These conditions can be considered as an "auto qualifier" for braces.

10. As Dr. [REDACTED] did not indicate any of the above dental conditions, he proceeded with scoring.

11. Dr. [REDACTED] identified both an overjet and overbite.

12. An overjet is the extent of horizontal overlap between the upper and lower front teeth. Dr. [REDACTED] scoring for petitioner's overjet was "7".

13. An overbite is the extent of vertical overlap between the front upper and lower teeth. Dr. [REDACTED] scoring for petitioner's overbite was "4".

14. Dr. [REDACTED] total IAF scoring was "11".

15. A DentaQuest dentist thereafter reviewed Dr. [REDACTED] submissions. Based on submitted information, the reviewer independently completed a new IAF. The reviewer also identified both an overjet and overbite. The overjet was scored at "6" and the overbite at "2". The total score was "8".

16. On March 2, 2015 DentaQuest notified Dr. [REDACTED] that the request for orthodontic treatment was denied. The notice stated, in part: "Per Dental Director review, a score of 26 points must be reached in order to qualify for orthodontic treatment."

17. On March 2, 2015 correspondence was also sent to the petitioner and stated, in part: "We determined that your requested services are not medically necessary ..."

18. On March 13, 2015 the Office of Appeal Hearings timely received petitioner's request for a fair hearing.

19. Petitioner does not have:

- Any known periodontal disease
- Dental cavities
- Speech problems due to the malposition of teeth
- A head injury which has impacted her current dental status
- A cleft lip or palate
- Problems with her jaw

20. Petitioner experiences some pain when eating certain types of food.

21. Respondent asserts the degree of the misalignment of petitioner's teeth is not severe enough to meet Medicaid criteria for braces.

**Principles of Law and Analysis**

22. 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.

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

24. Fla. Admin. Code R. 59G-4.060 addresses dental services and states, in part:

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook, November 2011, ... and the Florida Medicaid Provider Reimbursement Handbook, ADA Dental Claim Form, July 2008, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C.

(3) The following forms that are included in the Florida Medicaid Dental Services Coverage and Limitations Handbook are incorporated by reference: Medicaid Orthodontic Initial Assessment Form (IAF), ...

25. The Florida Medicaid Dental Services Coverage and Limitations Handbook (Dental Handbook) states, on page 2-2, "Medicaid reimburses for services that are determined medically necessary ..."

26. In regard to medical necessity for Medicaid funded services, the definition is found in Fla. Admin Code. R. 59G-1.010 and states:

(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. As the petitioner is under 21 years of age, Early Periodic Screening, Diagnosis, and Treatment (EPSDT) requirements apply to the evaluation of the petitioner's eligibility for orthodontic services. Section 409.905, Fla. Stat., *Mandatory Medicaid services*, defines Medicaid services for children to 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, ...

28. In regard to EPSDT requirements, The State Medicaid Manual, published by the Centers for Medicare and Medicaid Services states, in part:

5110. Basic Requirements...

...Services under EPSDT must be sufficient in amount, duration, or scope to reasonably achieve their purpose. The amount, duration, or scope of EPSDT services to recipients may not be denied arbitrarily or reduced solely because of the diagnosis, type of illness, or condition. **Appropriate limits may be placed on EPSDT services based on medical necessity** [Emphasis Added].

29. The Findings of Fact establish orthodontic procedures are allowed for Medicaid recipients under the age of 21 to ameliorate a dental condition. The Findings of Fact also establish petitioner is under the age of 21. The issue before the undersigned, therefore, focuses upon whether the requested orthodontic services meet medical necessity criteria.

30. When considering whether the requested orthodontic service is medically necessary, analysis is further directed to the Dental Handbook. Page 2-15 states:

Prior authorization is required for all orthodontic services. Orthodontic services are limited to those recipients with the most handicapping malocclusion. A handicapping malocclusion is a condition that constitutes a hazard to the maintenance of oral health and interferes with the well-being of the patient by causing impaired mastication, dysfunction of the temporomandibular articulation, susceptibility to periodontal disease, susceptibility of dental caries, and impaired speech due to malposition of the teeth.

31. Pages 2-16 through 2-18 of continue by stating:

Orthodontic procedures are limited to recipients under age 21 whose handicapping malocclusion creates a disability and impairment to their physical development.

Criteria for approval is limited to one of the following conditions:

- Correction of severe handicapping malocclusion as measured in the Medicaid Orthodontic Initial Assessment Form (IAF) ...
- Syndromes involving the head and maxillary or mandible jaws such as cleft lip or cleft palate
- Cross-bite therapy, with the exception of one posterior tooth that is causing no occlusal interferences;
- Head injury involving traumatic deviation; or
- Orthognathic surgery, to include extractions, required or provided in conjunction with the application of braces.

The Medicaid Orthodontic Initial Assessment Form (IAF) is to be completed by the orthodontic provider at the initial evaluation of the recipient.

The IAF is:

- Designed for use as a guide by the provider in the office to determine whether a prior authorization (PA) request should be sent to the Medicaid orthodontic consultant; and
- A means by which the orthodontic provider may communicate to Medicaid's orthodontic consultant all the distinctive details pertaining to an individual case. ...

...

A score of 26 or greater may indicate that treatment of the recipient's condition could qualify for Medicaid reimbursement, and the orthodontic provider should submit a prior authorization request to Medicaid for consideration of orthodontic services. A score of 26 or greater on the IAF is not a guarantee of approval. It is used by the provider to determine whether diagnostic records should or should not be sent to the orthodontic consultant.

...

A score of less than 26 indicates that treatment of the recipient's condition may not qualify for Medicaid reimbursement, and the request for prior authorization may be denied.

This does not say that such cases do not represent some degree of malocclusion, but simply that the severity of the malocclusion does not qualify for coverage under the Florida Medicaid Orthodontic Program.

32. The petitioner's orthodontist completed an IAF with a score of "11". A DentaQuest dentist reviewed submitted information and completed an IAF which was scored at "8".

33. Neither IAF established the petitioner has a cleft palate; deep impinging overbite; crossbite of anterior teeth; severe traumatic deviations; or overjet great than 9mm.

34. Neither IAF established petitioner met the requirements of the Medicaid Program for braces.

35. No credible evidence was presented which imputed the scoring on either IAF.



36. It is not disputed the petitioner has a misalignment of teeth. The greater weight of evidence does not establish petitioner's orthodontic status rises to the stringent requirement of a "most handicapping malocclusion" as defined the Dental Handbook.

37. The petitioner's request for braces has not satisfied the following condition of medical necessity:

3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, ...

38. The undersigned has reviewed EPSDT and medical necessity requirements and applied such to the totality of the evidence. The petitioner has not established, by the greater weight of the evidence, that respondent's action in this matter was incorrect.

### **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.

FINAL ORDER (Cont.)

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DONE and ORDERED this 13<sup>th</sup> day of May, 2015,

in Tallahassee, Florida.



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