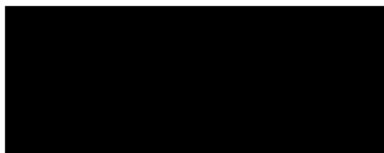


STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

**FILED**

JUN 24 2015

OFFICE OF APPEAL HEARINGS  
DEPT OF CHILDREN & FAMILIES



APPEAL NO. 15F-02675

PETITIONER,

Vs.

CASE NO.

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 May 18, 2015, at 9:15 a.m.

**APPEARANCES**

For the Petitioner:  pro se.

For the Respondent: Dianna Chirino, Senior Program Specialist, Agency for Health Care Administration (AHCA).

**STATEMENT OF ISSUE**

At issue is the Agency's action in denying the petitioner's request for partial upper and partial lower dentures. The petitioner carries the burden of proof in this matter.

**PRELIMINARY STATEMENT**

Present as witnesses for the respondent were Mindy Aikman, Grievance and Appeals Specialist, and Pam Weddington, Grievance and Appeals Specialist, both from Humana. Also present as witnesses for the respondent were Dr. Daniel Dorrego, Dental Consultant, and Jacqueline Salcedo, Complaints and Grievances Specialist, both from DentaQuest.

Present as an interpreter was Catya Gallender from Propio Language Services.

The petitioner submitted into evidence Petitioner Exhibit 1. The respondent submitted into evidence Respondent Exhibit 1 and 2.

**FINDINGS OF FACT**

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. The petitioner is a Medicaid recipient living in Miami-Dade County, Florida. She is enrolled in the Medicaid MMA (Managed Medical Assistance) Program with Humana. Humana is a Managed Care Organization that has been authorized by AHCA to make certain prior service authorization decisions for individuals enrolled in Medicaid MMA Programs. DentaQuest is in partnership with Humana to provide dental care and to perform prior service authorization reviews for dental services.

2. On March 13, 2015, the petitioner's treating dentist requested, through Humana and DentaQuest, two partial dentures using the codes D5213 and D5214. On March 17, 2015, DentaQuest sent an Authorization Determination letter to the petitioner's provider/dentist. The letter indicated the above requests were denied as "masticatory function does not appear to be severely impaired."

3. On March 17, 2015, DentaQuest sent a Notice of Case Action to the petitioner stating:

We determined that your requested services are not medically necessary because the services do not meet the reason(s) checked below

Must be needed to protect life, to prevent significant illness or disability, or alleviate severe pain.

Must be individualized, specific, consistent with symptoms or diagnosis of the illness or injury and not be in excess of the patient's needs.

Must be meet accepted medical standards, and not be experimental or investigational.

4. The respondent's witness, Dr. Dorrego, indicated according to standard dental practice, if there are at least eight teeth in occlusion then there exists a stable and functioning bite. After reviewing the petitioner's X-rays, this witness found there are at least nine teeth in occlusion. He indicated that the above refers to posterior teeth. He indicated the petitioner has a stable and functional bite at this time. He also reiterated the request for the dentures did not meet the medically necessary requirements or criteria of the Medicaid Program.

5. The petitioner argued that she partially needs the dentures, so that her ten year old daughter can be proud of her when she attends her daughter's graduation ceremony. She also argued she has lost five pounds recently based on her inability to eat properly.

6. The respondent's witness indicated the petitioner, by her own testimony, is requesting the dentures for aesthetic reasons, which would not meet the medically necessary definition criteria for the dentures.

7. The petitioner argued it appears the Agency witness wants her to eat like a rabbit. She indicated she would appreciate if at least one of her teeth could be replaced.

8. The respondent's witness indicated the petitioner has enough teeth on both the left and the right side of her mouth to properly eat her food. He also indicated the one tooth the petitioner is specifically requesting to be replaced would not be feasible as it would not have an opposing tooth to make it worth replacing.

#### **CONCLUSIONS OF LAW**

9. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat.

10. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code

R. 65-2.056.

11. 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, 7th Ed., 1999), or evidence that "more likely than not" tends to prove a certain proposition. See *Gross v. Lyons*, 763 So. 2d 276, 289, n.1(Fla. 2000).

12. The Dental Services Coverage and Limitation Handbook (November 2011) has been incorporated by reference into Chapter 59G-4, Fla. Admin. Code, and states on page 2-33:

**Exclusions**

Medicaid will not reimburse for:

- Partial dentures where there are at least eight posterior teeth in occlusion;
- Partial dentures for single tooth replacement unless it is a missing anterior tooth;
- Claims for relines and denture adjustments with the same date of service for the same recipient;
- Claims for repairs and denture adjustments with the same date of service for the same recipient; and
- The use of tissue conditioning relines

13. Fla. Admin. Code R. 59G-1.010 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;

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. As shown in the Findings of Fact, the Agency, through Humana and DentaQuest, denied the petitioner's request for partial upper and partial lower dentures.

15. For the case at hand, the respondent's witness argued that by following standard dental practice, the petitioner has a stable and functioning bite, and the requested dentures are not medically necessary. Additionally, the respondent's witness argued it appears the petitioner is only requesting the dentures for aesthetic reasons, again not meeting the medical necessity criteria. The hearing officer agrees with the respondent's arguments, especially as the above cited handbook provides that Medicaid will not reimburse for partial dentures when there are at least eight posterior teeth in occlusion. The evidence shows petitioner has at least nine teeth in occlusion.

16. After considering the evidence and all of the appropriate authorities set forth in the findings above, the hearing officer concludes that the petitioner has not met her burden of proof and the Agency's action denying the petitioner's request for the upper and lower partial dentures is correct.

**DECISION**


Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is denied and the Agency action affirmed.

**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 24<sup>th</sup> day of June, 2015,

in Tallahassee, Florida.



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