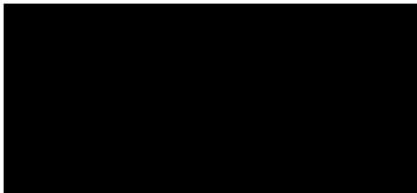


FILED

JUN 10 2015

**OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES**

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



APPEAL NO. 15F-02756

PETITIONER,

Vs.

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

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on May 5, 2015 at 10:00 a.m.

APPEARANCES

For the Petitioner:



Petitioner

For the Respondent:

Dianna Chirino, 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 submitted a letter as evidence for the hearing, which was marked as Petitioner Exhibit 1.

Appearing as witnesses for the Respondent were Dr. Susan Hudson, Dental Director, and Haydee Penaranda, Grievance and Appeals Manager, from DentaQuest, which is the Petitioner's dental services organization. Also present as witnesses for the Respondent were Michelle Rigler, Compliance Officer, and Audrey Cohen, Contract Manager, from Magellan Complete Care, which is Petitioner's managed health care organization.

Respondent submitted the following documents as evidence for the hearing, which were marked as Respondent Exhibits: Exhibit 1 – Authorization Request; Exhibit 2 – Denial Letter; Exhibit 3 – Appeal Review documents; Exhibit 4 – Updated Authorization Request; Exhibit 5 – Criteria for Extractions; and Exhibit 6 – Covered Benefits.

FINDINGS OF FACT

1. The Petitioner is a fifty-six (56) year-old Medicaid recipient who is enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA) plan. She receives services under the plan from Magellan Complete Care, which utilizes DentaQuest for review and approval of dental services.

2. On or about March 2, 2015, the Petitioner's treating dentist (hereafter referred to as "the provider"), requested prior authorization from DentaQuest to perform numerous dental procedures, including dentures, surgical removal of teeth, alveoplasty, endodontic therapy, and gingival irrigation. DentaQuest partially denied this request on March 3, 2015.

3. DentaQuest's March 3, 2015 denial notice to the Petitioner advised her that some of her requested services were denied as not being covered services. DentaQuest did approve dentures for the Petitioner. DentaQuest also subsequently approved five tooth extractions for the Petitioner on April 13, 2015.

4. Petitioner's testimony centered on the denial of her request for alveoplasty. She stated she needs this service performed to help the dentures fit correctly in her mouth. She also stated she only has six teeth and can only eat peanut butter because she cannot chew food.

5. The Respondent's expert witness, Dr. Hudson, testified that the denial of the Petitioner's request for alveoplasty was appropriate because the dentures will still need adjustments regardless of whether or not alveoplasty has been performed.

6. The other witness from DentaQuest, Ms. Penaranda, testified that the only covered services (among those requested by Petitioner) for adult Medicaid recipients in the Magellan MMA plan are dentures and extractions.

7. 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

8. 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.

9. This is a final order pursuant to Fla. Stat. § 120.569 and § 120.57.

10. This hearing was held as 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.).

12. 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.

13. 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."

14. 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.

15. Alveoplasty is defined on page 2-14 of the Dental Handbook as follows:

Alveoloplasty is the surgical preparation of the alveolar ridge for dentures and is indicated in extreme cases without which insertion of dentures would be impossible. The procedures are provided and billed on a quadrant basis, which may or may not be in conjunction with extractions.

16. Petitioner testified she needs the alveoplasty procedure performed so that her dentures will fit properly in her mouth. Respondent's dental expert testified that the dentures will need adjustments regardless of whether or not an alveoplasty is performed. Petitioner has been approved for dentures but they have not yet been

installed in her mouth. Although the Petitioner's treating dentist has requested the alveoplasty and the other dental services, this does not in itself establish that these services are medically necessary according to the rule provisions outlined above.

17. 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). The evidence failed to show without alveoloplasty insertion of petitioner's dentures would be impossible. In addition, the undersigned notes that alveoplasty is not a covered service for adult Medicaid recipients in the Magellan MMA plan unless four or more extractions are to be performed in the same quadrant of the mouth. According to the DentaQuest Authorization Determination form, the service request submitted by the provider listed fewer than four extractions per quadrant. 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.

18. The undersigned notes that Petitioner's testimony only addressed the denial of her request for the alveoplasty, not the denial of the other services mentioned in the denial notice (such as endodontic therapy and gingival irrigation). Accordingly, Petitioner has failed to meet her burden of proof with respect to the denial of those services as well.

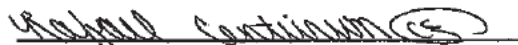
DECISION

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 10th day of June, 2015,
in Tallahassee, Florida.


Rafael Centurion
Hearing Officer
Building 5, Room 255
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Tallahassee, FL 32399-0700
Office: 850-488-1429
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Copies Furnished To:

 Petitioner
Rhea Gray, Area 11, AHCA Field Office Manager