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



[redacted]

PETITIONER,

APPEAL NO. 15F-03313

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 20 Charlotte
UNIT: AHCA

RESPONDENT.
_____/

## FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on May 12, 2015, at approximately 10:54 a.m.

## APPEARANCES

For Petitioner: [redacted] Petitioner

For Respondent: Suzanne Chillari, Medical Healthcare Program Analyst
Agency for Healthcare Administration

## STATEMENT OF ISSUE

Whether the Agency was correct in denying Petitioner's request for intravenous moderate (conscious) sedation/analgesia during extraction surgery to remove impacted, bony, wisdom teeth. The CDT codes used for this request were 9241 and 9242. The burden of proof on this issue lies with Petitioner.

## PRELIMINARY STATEMENT

Petitioner's mother [redacted] appeared as a witness for Petitioner. Appearing as witnesses for Respondent were Laurie Dillard (Compliance Officer with Integral Quality Care), Annette Hernandez (Compliance Coordinator with Integral Quality Care), and Dr. Barbara Nobrit-Stephens (Integral Quality Care's Medical Director).

Respondent admitted seven exhibits into evidence, which were marked and entered as Respondent's Exhibits 1 through 7. Petitioner submitted one composite exhibit into evidence, marked and entered as Petitioner's Composite Exhibit 1.

## FINDINGS OF FACT

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

1. Petitioner is a Medicaid recipient under 21 years of age. His teeth are crowded in his mouth. His wisdom teeth are impacted and are causing him pain. After some difficulty, he located a dentist that accepts Integral Quality Care (his Medicaid managed care plan).

2. MCNA is contracted by the managed care plan as its prior service authorization organization (PRO). The PRO reviews dental procedures requested by Medicaid/HMO plan members under the age of 21, to determine if the services requested are medically necessary.

3. Petitioner's dentist recommended extracting the wisdom teeth under general anesthesia. He submitted a prior authorization request on or about April 7, 2015 for the services at issue:

| | |
|---|---|
| CDT 9242 | Intravenous Moderate (Conscious) Sedation/Analgesia, Each Additional 15 Minutes |
| CDT 9242 | Intravenous Moderate (Conscious) Sedation/Analgesia, Each Additional 15 Minutes |
| CDT 9241 | Intravenous Moderate (Conscious) Sedation/Analgesia – First 30 Minutes |

4. MCNA approved the extractions, but denied the analgesia as not medically necessary. The denial letter, dated April 9, 2015, explained the reasons for the denial. Specifically, Integral Quality Care, through its reviewer MCNA, determined that the service met the criteria for medical necessity except there is an equally effective and more conservative or less costly treatment available.

5. Integral Quality Care's Medical Director testified that for wisdom teeth extractions, local anesthesia is common practice. In general, sedation anesthesia would be approved if the surgery is expected to take an unusually long amount of time where the local anesthetic would wear off.

6. In addition, at hearing, Integral Quality Care cited to the Medicaid Dental Coverage Services and Limitations Handbook as a basis for the denial. The cited provision at page 2-5, explains that "only when the recipient has a severe physical or mental disability, or is difficult to manage." Petitioner has no such disability or issue.

7. Petitioner feels that local anesthesia is not appropriate for his surgery. He testified that his dentist refuses to do the surgery without general sedation.

8. Integral Quality Care asserted that it is working with its vendors to find a dentist who will perform the surgery under local anesthesia.

## PRINCIPLES OF LAW AND ANALYSIS

9. 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, Florida Statutes.

10. This is a final order pursuant to Sections 120.569 and 120.57, Florida Statutes.

11. This hearing was held as a de novo proceeding pursuant to Florida Administrative Code Rule 65-2.056.

12. In accordance with Florida Administrative Code Rule 65-2.060(1), the burden of proof was assigned to the Petitioner. The standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence, as provided by Florida Administrative Code Rule 65-2.060(1).

13. Section 409.912, Florida Statutes, notes that AHCA shall purchase goods and services for Medicaid recipients in the most cost-effective manner possible, consistent with the delivery of quality medical care. The statutes further provide that AHCA shall contract on a prepaid or fixed-sum basis with appropriately licensed prepaid dental health plans to provide dental services.

14. The Florida Medicaid Provider General Handbook (Provider Handbook) – July 2012 is incorporated by reference in Florida Administrative Code Rule 59G-4. In accordance with the Florida law, the Provider Handbook discusses managed care coverage, stating on page 1-27:

> Medicaid contracts with Health Maintenance Organizations (HMOs) to provide prepaid, comprehensive, cost-effective medical services to enrolled Medicaid recipients.

> Medicaid pays each HMO a monthly capitation fee for managing and providing care to each enrolled recipient. In accordance with certain contractual agreements with Medicaid, the HMO provides a specified, comprehensive package of medical services for this monthly Medicaid fee. Medicaid HMOs are also required to provide quality and benefit enhancements and can provide other expanded benefits as described in this section.

15. Page 1-30 of the Provider Handbook states: "An HMO's services cannot be more restrictive than those provided under Medicaid fee-for-service."

16. Page 2-3 of the Dental Handbook also states, in relevant part:

> Prior Authorization
>
> A number of services must be authorized before providing them to the recipient. All requests for prior authorization (PA) of dental procedures must be submitted on the dental "Prior Authorization Request for Treatment Authorization" form (DPA 1041).
>
> Note: See the Florida Medicaid Provider Reimbursement Schedule for dental procedure codes requiring prior authorization. These are identified in the "Spec" column of the fee schedule.

17. The Florida Medicaid Provider Reimbursement Schedule for dental procedures, specifically, the Dental General Fee Schedule, has been promulgated into law and incorporated by reference at Fla. Admin. Code R. 59G-4.002.

18. Page 6 of the Dental Fee Schedule provide descriptions and limitations for various procedure codes. The fee schedule indicates the procedure codes "D9241 - Intravenous Moderate (Conscious) Sedation/Analgesia – First 30 Minutes" and "D9242 - Intravenous Moderate (Conscious) Sedation/Analgesia, Each Additional 15 Minutes" do not require prior authorization in order for those services to be provided to a recipient.

19. In careful review of the above-cited authorities and evidence, the undersigned concludes that although Petitioner bears the burden of proof, the Respondent

improperly denied Petitioner's request for the accompanying sedation for his wisdom teeth extraction. Respondent's denial was fundamentally improper as the requested services do not require prior authorization.

## DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, Petitioner's appeal is GRANTED, and the Agency's action 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.

DONE and ORDERED this 14th day of May, 2015,

in Tallahassee, Florida.

Danielle Murray
Hearing Officer
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Copies Furnished To: [redacted] Petitioner
Dietra Cole, Area 8, AHCA Field Office Manager