

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

FILED

JUN 29 2015

OFFICE OF APPEAL HEARINGS
DEPT OF CHILDREN & FAMILIES

APPEAL NO. 15F-03883

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 13 Hillsborough
UNIT: AHCA

RESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on May 28, 2015, at approximately 1:04 p.m.

APPEARANCES

For Petitioner: [REDACTED] Petitioner

For Respondent: Stephanie Lang, RN Specialist
Agency for Healthcare Administration

STATEMENT OF ISSUE

Whether the Agency was correct in denying Petitioner's request for periodontal scaling, and root planing. The burden of proof on this issue is assigned to the Petitioner. Petitioner's request for partial dentures was approved prior to hearing and was not addressed at hearing.

PRELIMINARY STATEMENT

Appearing as witnesses for Respondent were Laura Withrow, Manager of Quality with Amerigroup; Jackie Salcedo with Amerigroup's Complaints and Grievance Department; and Dr. Daniel Dorrego, Florida Dental Director with DentaQuest. Lou Esposito, Medical Healthcare Program Analyst with the Agency for Health Care Administration, observed the hearing.

Petitioner's request for partial upper dentures was approved and the plan sent confirmation to the dental provider. This order will only address the remaining issue, which is the denial of Petitioner's request for periodontal scaling and root planning.

Respondent admitted six exhibits into evidence, which were marked and entered as Respondent's Exhibits 1 through 6. Petitioner submitted no evidence.

Administrative notice was taken of Florida Statutes 409.910, 409.962 through 409.965, and 409.973. Administrative notice was also taken of Florida Administrative Code Rules 59G-1.001 and 1.010, as well as the Florida Medicaid Dental Services Coverage and Limitations Handbook (November 2011).

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 over 21 years of age. She has dental problems which cause her bad odor and broken teeth. Her dentist told her that she needed a deep cleaning before he will provide her partial dentures.

2. On or about April 6, 2015, Petitioner's dentist submitted a prior authorization request to Petitioner's managed care plan, Amerigroup. DentaQuest handles the prior authorization reviews for Amerigroup members.

3. DentaQuest, by notice dated April 7, 2015, denied Petitioner's request for code D4341, which is periodontal scaling and root planing (a deep cleaning). The request was denied because these procedures are not a covered benefit for Medicaid recipients over 21 years old. This procedure code is not listed on the benefit schedule.

4. Petitioner's plan covers regular cleanings, but not deep cleanings. Medical need for the deep cleaning was not the reason for the denial. The deep cleaning was denied because it is not a covered service under Petitioner's plan.

5. Petitioner is unable to afford the deep cleaning and is afraid that she will be unable to get her dentures without it. She works with the public and wants to take care of her teeth.

CONCLUSIONS OF LAW

6. 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.

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

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

9. 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).

10. 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.

11. 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.

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

13. According to page 2-3 of the Medicaid Dental Services Coverage and Limitations Handbook (Dental Handbook), Medicaid covers some dental services for adults over 21. The Dental Handbook is promulgated into law by Rule 59G-4.060(2),

Florida Administrative Code. According to the Dental Handbook, Medicaid will cover dentures and denture related procedures, as well as:

...medically-necessary emergency dental procedures to alleviate pain and/or infection for eligible adults... Emergency dental care shall be limited to emergency problem-focused evaluations, necessary radiographs to make a diagnosis, extraction, and incision and drainage of abscess.

14. The question becomes whether Petitioner's request for services is a medically-necessary emergency dental procedure to alleviate pain and/or infection. Florida Administrative Code, 59G-1.010(166), defines 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; 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.

15. Deep cleaning services are not a covered benefit for adults over 21, such as Petitioner, under fee-for-service Medicaid. Even if Petitioner showed that the cleaning was a medically necessary emergency treatment, Medicaid does not provide deep cleanings as a part of emergency care for adults. The HMO may provide services

beyond what Medicaid provides, but in this case, the HMO does not provide deep cleanings.

16. After careful review of the relevant authorities, the testimony and the evidence in this matter, the hearing officer concludes that Petitioner's request for deep cleaning is outside the scope of services to which she is entitled under her benefit plan.

DECISION

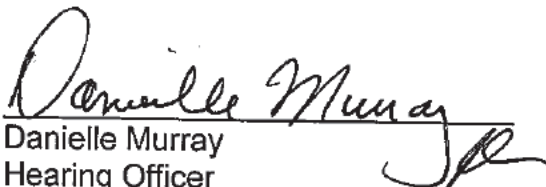
Based upon the foregoing Findings of Fact and Conclusions of Law, Petitioner's appeal is DENIED, and the Agency's action is affirmed.

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 29th day of June, 2015,

in Tallahassee, Florida.


Danielle Murray
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Copies Furnished To: [REDACTED] Petitioner
Don Fuller, Area 6, AHCA Field Office Manager