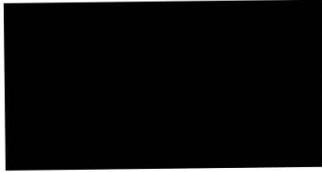


**FILED**

**NOV 02 2015**

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

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 15F-06584

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 September 8, 2015, at approximately 10:03 a.m.

**APPEARANCES**

For Petitioner:  Petitioner's fiancée

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

**STATEMENT OF ISSUE**

Whether the Agency was correct in denying Petitioner's request for tooth cleaning of heavy deposits, deep gum and root cleaning. The burden of proof on this issue is assigned to the Petitioner by the preponderance of evidence.

### **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. Susan Hudson, Florida Dental Director with DentaQuest.

Respondent admitted seven exhibits into evidence, which were marked and entered as Respondent's Exhibits 1 through 7. Petitioner submitted no exhibits. 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, 1.010, 59G-4.060.

### **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. He has dental problems which cause bleeding gums and pain. He has periodontal disease. His dentist refuses to fill cavities or give a regular cleaning unless a deep cleaning is performed. Petitioner is worried about long term medical effects resulting from untreated teeth.

2. On or about June 19, 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. The dentist requested codes D4355 (full mouth debridement), D4341 (periodontal scaling and root planing), and D2392 (amalgam).

3. DentaQuest, by notice dated June 20, 2015, denied Petitioner's request for codes D4341 and D4355. The request was denied because these procedures are not a

covered benefit for Medicaid recipients over 21 years old. Code D2150 was not reviewed because authorization was not required for that service.

4. The procedure codes D4341 and D4355 are not listed on Amerigroup's benefit schedule. The procedure codes D4341 and D4355 are listed on the Medicaid Dental Fee Schedule but there is a maximum age of 20 years old to receive these services.

5. 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.

#### **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. 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.

10. The Florida Medicaid Provider General Handbook (Provider Handbook) – July 2012 is incorporated by reference in Florida Administrative Code Rule 59G-5.020(1). 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.

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

12. 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.

13. 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.

14. Covered dental services for adults are described on page 2-3 of the Dental Handbook, excerpted in paragraph 12 above. Deep cleaning services are not listed as 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.

15. 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 he is entitled under the 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 2<sup>nd</sup> day of November, 2015,

in Tallahassee, Florida.

  
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Tallahassee, FL 32399-0700  
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Copies Furnished To: [REDACTED] Petitioner  
Don Fuller, Area 6, AHCA Field Office Manager