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

FILED
Dec 28, 2015
Office of Appeal Hearings
Dept. of Children and Families

APPEAL NO. 15F-07897

PETITIONER,

Vs.

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

RESPONDENT.
_______________________________/

FINAL ORDER

Pursuant to notice, a telephonic administrative hearing was convened in this matter before the undersigned hearing officer on November 9, 2015 at 3:03 p.m.

APPEARANCES

For the Petitioner: Pro Se

For the Respondent: Dianna Chirino,
Senior Human Services Program Specialist,
Agency for Health Care Administration

STATEMENT OF ISSUE

The Petitioner is appealing the Agency for Health Care Administration's (AHCA's) decision, through DentaQuest, in denying requests for the following dental procedures:

- D2950-a filing for a crown with posts, Tooth 3 and 19;
- D2751-white glass with metal crown, Tooth 3 and 19;
- D7210-surgical extraction, Tooth 6, 8 and 9;
- D3330-nerve treatment on molar tooth, Tooth 19;
- D5213-partial upper denture; and
- D5214-partial lower denture

Because the issue under appeal involves requests for services, the burden of proof was assigned to the Petitioner.

PRELIMINARY STATEMENT

Mindy Aikman, Grievance and Appeals Specialist, appeared as Respondent's witness from Petitioner's managed care plan Humana. Sara Miller, Grievance and Appeals Specialist from Humana also appeared as an observer. Appearing as Respondent witnesses from DentaQuest were Dr. Susan Holden, Dental Consultant and Jackelyn Salcedo, Complaints and Grievance Specialist.

Respondent submitted a 46-page document, which was entered into evidence and marked Respondent Exhibit 1.

On October 22, 2015, DentaQuest sent Petitioner an appeal determination letter in which she was notified that the following procedures have been approved:

- D2751-crown-porcelain fused to predominantly base metal, Tooth 3;
- D7210-surgical extraction of Tooth 6, 8, and 9;
- D5213-partial denture, upper arch;
- D5214-partial denture, lower arch; and
- D4341-periodontal scaling, upper left quadrant.

The following procedures remain denied and are the remaining issues for Petitioner's appeal:

- D2950-core buildup, including any pins when required, Tooth 3 and 19;
- D3330-endodontic therapy, molar, Tooth 19;
- D2751-crown, porcelain fused to predominant base metal, Tooth 19; and
- D4341-periondontal scaling and root planting-four or more teeth per quadrant, upper left quadrant

FINDINGS OF FACTS

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

1. Petitioner is a 61 year-old Medicaid recipient enrolled with Humana Medical Plan (Humana), a Florida Health Managed Care provider.

2. Human requires prior authorization for services related to dental care and has subcontracted with DentaQuest to perform the prior authorization requests.

3. Petitioner asserts she has [redacted] as a result of using fosomax for two years. She asserts she needs the dental procedures requested.

4. DentaQuest's dentist explained for procedure D4341, Petitioner's upper left quadrant has less than four teeth which is the minimum number of teeth required for this procedure to be approved. For procedure D2751 for tooth 19, there is significant bone loss around the roots of the tooth. The likelihood of losing tooth 19 is high and is the reason for the denial of this procedure. Procedure code D2950 (core buildup, including any pins when required, Tooth 3 and 19) and D3330 (endodontic therapy, molar, Tooth 19) were denied because they are not covered services.

5. Petitioner wanted to know what other options she had. Respondent suggested she discuss that with her dentist but noted that extraction of tooth 19 would result in including it in her partial denture.

CONCLUSIONS OF LAW

6. By agreement between the Agency for Health Care Administration and the Department of Children and Families, the Agency for Health Care Administration has

conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to Chapter 120.80 Florida Statutes.

7. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

8. 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).

9. Florida Statutes 409.971 – 409.973 establishes the requirement for Medicaid recipients to be enrolled in the statewide managed medical assistance program and the minimum benefits the managed care plans shall cover. Dental services are one of the mandatory services that must be provided.

10. § 409.912, Fla. Stat. also provides that the Agency may mandate prior authorization for Medicaid services.

11. Fla. Admin. Code R. 59G-1.010 defines "prior authorization" as:

> (226) "Prior authorization" means the approval by the Medicaid office for a Medicaid provider, or by a prepaid health plan for its affiliated providers, to deliver Medicaid covered medical or allied care, goods, or services in advance of the delivery of the care, goods, or services.

12. Fla. Admin. Code R. 59G-1.010 (166) provides…

> "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.

13. Page 33, paragraph 5 of the Attachment II to the AHCA Standard Contract No. FP026 for managed care states in relevant part:

> The Agency shall be responsible for promulgating coverage requirements applicable to Managed Care Plan through the Florida Medicaid Coverage and Limitations Handbooks…

14. The Florida Medicaid Dental Services Coverage and Limitations Handbook- November 2011 (Handbook), incorporated by reference into Chapter 59G-4, Fla. Admin. Code, sets standards for dental services and describes on pages 1-2 and 2-3 the covered services for adults (21 years old and over):

> The purpose of the dental program is to provide dental care to recipients under the age of 21 years, emergency dental services to recipients age 21 and older, and denture and denture-related services and oral and maxillofacial surgery services to all Medicaid-eligible recipients.
> ….
>
> The adult dental program provides for the reimbursement of full and removable partial dentures. Extractions and other surgical procedures essential to the preparation of the mouth for dentures are reimbursable if the patient is to receive dentures. Procedures relating to dentures such as repairs, relines and adjustments are reimbursable.
>
> Medicaid will reimburse for medically-necessary emergency dental procedures to alleviate pain and or infection for eligible adult Medicaid recipients 21 years of age or older. Emergency dental care shall be limited

to emergency problem-focused evaluations, necessary radiographs to make a diagnosis, extraction, and incision and drainage of abscess.

15. In addition to the Handbook, the Dental General Fee Schedule published by the Agency for Health Care Administration indicates what dental procedure codes are covered by Medicaid. Procedure codes D2950, D3330, are not covered for adults by Medicaid.

16. While the Petitioner asserted she needs the requested dental procedures, Respondent has provided credible testimony and justification why the remaining dental procedures requested (D4341, D2751, D2950 and D3330) are denied. The Petitioner has failed to meet her burden.

DECISION

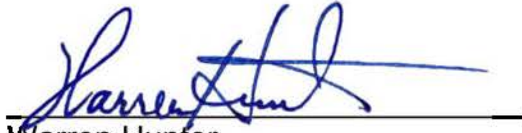
Based upon the foregoing Findings of Fact and Conclusions of Law, the Agency for Health Care Administration acted correctly in denying service procedure codes D4341, D2751, D2950 and D3330 for the Petitioner. Therefore Petitioner's appeal is denied.

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 Petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 28 day of December, 2015,

in Tallahassee, Florida.



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