

Dec 30, 2015

Office of Appeal Hearings
Dept. of Children and FamiliesSTATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

APPEAL NO. 15F-08432

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 18 Brevard
UNIT: AHCARESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-styled matter on November 24, 2015 at approximately 1:30 p.m.

APPEARANCES

Petitioner:



For Respondent:

Lissette Knott
Program Administrator
Agency for Health Care Administration**STATEMENT OF ISSUE**

At issue is Respondent's denial of Petitioner's request for a root canal. The burden of proof is assigned to Petitioner.

PRELIMINARY STATEMENT

The following individuals were present as witnesses for Respondent:

- Christian Laos – Senior Compliance Analyst – United Healthcare
- Lori Eubanks – Dental Account Manager – United Healthcare
- Dr. Brittany Vo – Dental Consultant – United Healthcare

Petitioner moved Exhibits 1 and 2 into evidence. Respondent moved Exhibits 1 through 4 into evidence at the hearing. The undersigned took administrative notice of the Florida Medicaid Provider General Handbook, July 2012.

FINDINGS OF FACT

1. Petitioner is a 60-year-old female. At all times relevant to this proceeding, Petitioner was eligible to receive Medicaid services.
2. Petitioner is enrolled with United Healthcare ("United") as her Managed Medical Assistance (MMA) plan.
3. On September 25, 2015, Petitioner's dentist submitted a prior authorization request for a root canal/nerve treatment, code D3320, for tooth # 5.
4. On September 28, 2015, United sent a Provider Prior Authorization Fax Notice to Petitioner's dentist, denying the root canal on the basis that it is not a covered benefit under her plan. United sent a Notice of Action to Petitioner on September 29, 2015, informing her of same.
5. Petitioner experiences pain any time she drinks something hot or cold.
6. Petitioner's gums sometimes become infected due to the poor condition of the tooth.
7. Petitioner is a [REDACTED]. She frequently takes antibiotics in order to prevent the infection from spreading, which could cause severe complications. Petitioner is concerned that her frequent use of antibiotics is going to cause her to build up a tolerance to them, rendering them ineffective.

8. Petitioner's dentist wants to save the tooth by performing a root canal. Petitioner would prefer to have the tooth extracted because she wants all of her teeth out in order to get dentures.
9. United's contract with the Agency for Health Care Administration ("AHCA" or "Agency") requires them to provide "medically-necessary, emergency dental procedures to alleviate pain or infection to enrollees age twenty-one (21) and older." (Respondent's Exhibit 2). The contract also requires United to "comply with provisions of the Medicaid Dental Services Coverage and Limitations Handbook" ["Dental Handbook"]. United's coverage limitations and exclusions cannot be more stringent than those in the Dental Handbook.
10. Per Respondent's Exhibit 2, United's MMA plan covers the following expanded dental services beyond those required by AHCA:

Two (2) exams per year; two (2) x-rays per year; two (2) cleanings per year; maximum nine (9) amalgam fillings; one (1), two (2) and three (3) surface(s); three fillings each every thirty-six (36) months; one (1), two (2) and (3) surface(s), three (3) fillings each every thirty-six (36) months; Comprehensive LTC enrollees excluded.
11. Dr. Vo testified that an emergency extraction is a covered benefit under Petitioner's plan, but that a root canal is not. She said Petitioner's testimony indicates the situation is not an emergency, but she suggested that Petitioner should consult another dentist to see if there is an emergency situation regarding the tooth's condition that would necessitate extraction. Petitioner said she has contacted other providers, but they do not take her insurance.
12. Dr. Vo stated if Petitioner is unable to find another provider who takes her insurance she can contact dental schools or health clinics.

CONCLUSIONS OF LAW

13. By agreement between AHCA and the Department of Children and Families (“DCF”), the Office of Appeal Hearings has jurisdiction to conduct this hearing pursuant to Section 120.80, Fla. Stat.
14. The hearing was held as a *de novo* proceeding, in accordance with Florida Administrative Code Rule 65-2.056.
15. This is a Final Order, pursuant to Sections 120.569 and 120.57, Fla. Stat.
16. The standard of proof in an administrative hearing is a preponderance of the evidence. Fla. Admin. Code R.65-2.060(1). The preponderance of the evidence standard requires proof by “the greater weight of the evidence,” (Black’s Law Dictionary at 1201, 7th Ed.).
17. Legal authority governing the Florida Medicaid Program is found in Fla. Stat. Chapter 409, and in Chapter 59G of the Florida Administrative Code. AHCA is the single state agency that administers the Medicaid Program.
18. The Dental Handbook is promulgated into law by Chapter 59G of the Florida Administrative Code.
19. Page 2-3 of the Dental Handbook states, in pertinent part:

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.
20. The definition of medically necessary is found in Fla. Admin. Code R.59G-1.010, which states:

(166) "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.

21. According to Dr. Vo, it is possible that Petitioner's situation qualifies as an emergency and thus medically necessary, but Petitioner's testimony makes it sound like it is not. The request submitted by Petitioner's dentist does not indicate an emergent situation.

22. Even if Petitioner's condition is an emergency, the solution requested by her dentist is not a covered benefit. The Dental Handbook covers extractions to correct an emergency, but does not cover root canals. United also does not cover root canals as an expanded benefit under its MMA plan.

23. Because root canals are not a covered benefit under both the Dental Handbook and United's MMA plan, the undersigned must conclude that denying the procedure was correct.

24. Petitioner is encouraged to follow Dr. Vo's suggestions and to work with United in order to find another dentist to reassess her condition to determine whether or not it constitutes an emergency, which would warrant an extraction.

DECISION

Based upon the foregoing, 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 30 day of December, 2015,

in Tallahassee, Florida.



Rick Zimmer
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal.Hearings@myflfamilies.com

Copies Furnished To: [REDACTED] Petitioner
Judy Jacobs, Area 7, AHCA Field Office