

Dec 31, 2015

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

Office of Appeal Hearings
Dept. of Children and Families



APPEAL NO. 15F-09076

PETITIONER,

Vs.

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

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in this matter on December 9, 2015 at 1:34 p.m.

APPEARANCES

For the Petitioner:  Pro Se

For the Respondent: Monica Otolara,
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, to deny the Petitioner's requests for the following dental procedures:

- D5214-partial lower denture;
- D4341-deep gum and root cleaning Upper Right quadrant, Upper Left Quadrant, Lower Left quadrant and Lower Right quadrant; and
- D7210-surgical extraction of tooth 29.

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

PRELIMINARY STATEMENT

Dr. Franciso Fernandez, Medical Director and Dianna Anda, Grievance and Appeals Coordinator, appeared as Respondent's witnesses from Petitioner's managed care plan Simply Health Care. Appearing as Respondent's witnesses from DentaQuest were Dr. Frank Mantega, Dental Consultant and Jackelyn Salcedo, Complaints and Grievance Specialist.

Respondent submitted a 38-page document which was entered into evidence and marked Respondent Exhibit 1.

At the time of the hearing, Petitioner advised he was not currently having problems with tooth 29 and was concerned only with the denial of his lower partial denture (procedure D5214) and denial of deep gum and cleaning (procedure D4341).

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 59 year-old Medicaid recipient enrolled with Simply Health Care Plan (Simply), a Florida Health Managed Care provider.
2. Simply requires prior authorization for services related to dental care and has subcontracted with DentaQuest to perform the prior authorization requests.

3. Petitioner asserts he needs lower partial dentures because he is currently not able to chew. He stated he has not yet received his upper partial dentures which have been approved.

4. Petitioner is [REDACTED] and has bleeding gums. He asserts it is medically necessary for him to have his gums and roots deep cleaned due to his [REDACTED]

5. DentaQuest's dentist explained that procedure D5214 partial lower denture was denied because with Petitioner's upper partial denture and remaining teeth in Petitioner's lower mouth, Petitioner has more than eight posterior contacts which provides a full complement for effective chewing. Therefore, the procedure is not currently medically necessary. The dentist advised that approval of partial lower dentures would require less than eight posterior contacts be available for chewing.

6. The dentist also advised that deep gum and root cleaning (procedure D4341) is not a Medicaid covered service. Petitioner's [REDACTED] status does not alter Medicaid's non-coverage of the procedure.

CONCLUSIONS OF LAW

7. 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.

8. This proceeding is a de novo proceeding pursuant to Florida Administrative Code R.65-2.056.

9. 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. 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.

11. § 409.912, Fla. Stat. also provides that the Agency may mandate prior authorization for Medicaid services.

12. 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.

13. 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.

14. 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...

15. 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 page 1-1

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.

16. On page 2-3 of the Handbook it provides a description of the covered services for adults (21 years old and over):

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.

17. In addition to the Handbook, the Dental General Fee Schedule published by the Agency for Health Care Administration and dated January 1, 2014 indicates what dental

procedure codes are covered by Medicaid. Medicaid does not cover procedure code D4341 for adults (over 20 years old).

18. While the Petitioner asserted he needs the deep gum and root cleaning, procedure code D4341, Medicaid does not cover this service for adults.

19. Petitioner also asserted he needs lower partial dentures, procedure code D5214, in order to chew properly. However, the Respondent provided sufficient testimony that this procedure is not medically necessary once Petitioner has his upper partial dentures. Petitioner will have sufficient upper and lower teeth for effective chewing. Petitioner has not met his burden of proof that the services requested are medically necessary.

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 and D5214 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.

FINAL ORDER (Cont.)

15F-09076

PAGE - 7

DONE and ORDERED this 31 day of December, 2015,

in Tallahassee, Florida.



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

Copies Furnished To: [REDACTED] Petitioner
Rhea Gray, Area 11, AHCA Field Office Manager