

Jan 20, 2016

Office of Appeal Hearings
Dept. of Children and Families

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



APPEAL NO. 15F-08019

PETITIONER,

Vs.

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

RESPONDENT.

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FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on November 23, 2015 at 11:30 a.m.

APPEARANCES

For the Petitioner:  Petitioner

For the Respondent: Monica Otalora, Senior Program Specialist
Agency for Health Care Administration (AHCA)

STATEMENT OF ISSUE

At issue is whether the Respondent's denial of the Petitioner's request for dental services was correct. The Petitioner has the burden of proving her case by a preponderance of the evidence.

PRELIMINARY STATEMENT

The Petitioner did not submit any documents as evidence for the hearing.

Appearing as witnesses for the Respondent were [REDACTED] Dental Consultant, and [REDACTED] Grievance Specialist, from [REDACTED], which is the Petitioner's dental services organization. Also present as witnesses for the Respondent were Natalie Fernandez, Contracts Specialist, and Alice Quiroz, A.V.P. of Government Contracts, from Molina Healthcare, which is Petitioner's managed health care organization.

Respondent submitted several documents as evidence for the hearing, which were marked as follows: Exhibit 1 – Fair Hearing Summary; Exhibit 2 – x-rays; Exhibit 3 – Denial Notice; Exhibit 4 – Covered Services; and Exhibit 5 – Dental Fee Schedules.

Also present for the hearing was a Spanish language interpreter, [REDACTED]

[REDACTED], from Propio Language Services.

FINDINGS OF FACT

1. The Petitioner is a fifty-five (55) year old Medicaid recipient who is enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA) plan. She receives services under the plan from [REDACTED] which utilizes [REDACTED] for review and approval of dental services.

2. On or about September 9, 2015, the Petitioner's treating dentist (hereafter referred to as "the provider"), requested prior authorization from [REDACTED] (and [REDACTED] to perform various dental procedures, including periodontal scaling and root

planing (deep cleaning) and a dental crown. [REDACTED] denied this request on September 10, 2015, stating that the requested services were not covered services under the Plan.

3. Petitioner testified that she has [REDACTED] and her [REDACTED] sent her to the dentist for tests so she could receive some type of injection in her bone. However, she was unsure of what treatment she will be undergoing or where the injections will be performed on her body.

4. The Respondent's witness, Ms. Fernandez from [REDACTED] Healthcare, testified that the services requested by the Petitioner – deep cleaning of four quadrants and one dental crown – are non-covered services under the Molina plan.

5. Dental services under the Medicaid State Plan in Florida are provided in accordance with the Respondent's Florida Medicaid Provider General Handbook ("Medicaid Handbook"), effective July 2012 and the Dental Services Coverage and Limitations Handbook ("Dental Handbook"), effective November 2011.

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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 Fla. Stat. § 120.80.

7. This is a final order pursuant to Fla. Stat. § 120.569 and § 120.57.

8. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

9. The standard of proof in an administrative hearing is a preponderance of the evidence, in accordance with Rule 65-2.060 (1), Fla. Admin. Code. The

preponderance of the evidence standard requires proof by “the greater weight of the evidence,” (Black’s Law Dictionary at 1201, 7th Ed.).

10. The Florida Medicaid Program is authorized by Chapter 409, Florida Statutes, and Chapter 59G, Florida Administrative Code. The Medicaid Program is administered by the Respondent. The Medicaid Handbook and the Dental Handbook are incorporated by reference in Chapter 59G-4, Florida Administrative Code.

11. The Medicaid Handbook and Fla. Admin. Code R. 59G-1.010(166) define 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;
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.

12. Petitioner’s requested dental services were not denied due to medical necessity considerations, but because the requested services are non-covered services according to the Plan.

13. The Florida Medicaid Program provides limited dental services for adults. The Dental Handbook describes the covered services for adults as follows:

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.

14. Managed care plans, such as [REDACTED] Healthcare, may provide more generous benefits but cannot be more restrictive than the Medicaid guidelines contained in the Dental Handbook.

15. Petitioner stated she believes the requested services should be approved because she was referred to the dentist by her [REDACTED] and the dental service is in some way related to her [REDACTED]

16. Respondent's witness did not address whether the services requested by Petitioner are medically necessary, but stated that the requested services are non-covered services.

17. After considering the evidence and testimony presented, the undersigned concludes that the Petitioner has not demonstrated that the requested services should have been approved by [REDACTED] or [REDACTED] Healthcare. The services requested (deep cleaning and dental crown) are non-covered services for adults under the Medicaid guidelines referenced above and under the Molina Healthcare dental plan

provisions. Therefore, the hearing officer cannot make a determination that these services must be covered by the Petitioner's plan.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the 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 agency has no funds to assist in this review, and any financial obligations incurred will be the Petitioner's responsibility.

DONE and ORDERED this 20 day of January , 2016,
in Tallahassee, Florida.



Rafael Centurion
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:

 Petitioner
Rhea Gray, Area 11, AHCA Field Office Manager