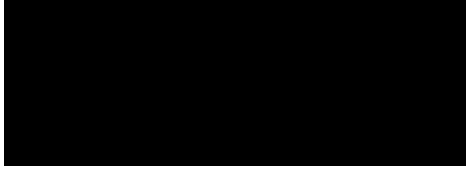


Jan 13, 2016

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

APPEAL NO. 15F-08821

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 18 Seminole
UNIT: AHCARESPONDENT.
_____ /**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-styled matter on December 14, 2015, at approximately 10:30 a.m.

APPEARANCES

Petitioner:



For Respondent:

Lisa Sanchez
Senior Human Services Program Specialist
Agency for Health Care Administration**STATEMENT OF ISSUE**

At issue is whether or not Respondent's denial of Petitioner's request for a second set of dentures is correct. The burden of proof is assigned to Petitioner.

PRELIMINARY STATEMENT

Petitioner represented himself at the hearing. Petitioner presented one witness,



The following individuals were present as witnesses for Respondent:

- Diana Andia – Grievance & Appeals Supervisor – Clear Health Alliance
- Dr. Merlin Osorio – Medical Director – Clear Health Alliance
- Haydee Penaranda – Complaints & Grievance Specialist - DentaQuest
- Dr. Daniel Dorrego – Dental Consultant – DentaQuest

Respondent's Exhibits 1 through 10 were entered into evidence at the hearing.

Petitioner did not move any exhibits into evidence at the hearing. The undersigned took administrative notice of the Florida Medicaid Provider General Handbook (July 2012).

FINDINGS OF FACT

Based upon 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 65-year-old male. At all times relevant to this proceeding, Petitioner was eligible to receive Medicaid services.
2. Petitioner was enrolled with Clear Health Alliance ("Clear Health") as his Managed Medical Assistance (MMA) program until September 30, 2015. He is currently enrolled with Staywell as his MMA program.
3. Petitioner's issue regards a full set of dentures that he says do not fit properly. Petitioner's issue arose when he was a member of Clear Health.
4. On June 8, 2015, Petitioner visited [REDACTED] to get both a mandibular and maxillary impression taken. Petitioner signed an agreement that he was satisfied with the impressions.
5. On June 16, 2015, Petitioner visited [REDACTED] for an adjustment. He indicated he was satisfied with the adjustment.
6. On June 18, 2015, Petitioner contacted Clear Health's Grievance & Appeals Department and stated the dentures never fit properly and after the adjustment they

were worse. He testified the adjustment was so significant that he can see through them. He says they scrape his mouth, causing pain and difficulty eating.

7. On June 23, 2015, Clear Health authorized Petitioner to seek a second opinion from a different dental provider to determine whether or not the dentures were made correctly and fit properly. A second set of dentures was not approved at this time, only the evaluation.

8. Petitioner visited [REDACTED] The treatment plan indicates the dentures are loose and causing pain. Petitioner was informed the denture process can require multiple adjustments over a two (2) to three (3) month period of time. He was also informed that a new set of dentures cannot be guaranteed to fit any better than the current ones.

9. On August 17, 2015, [REDACTED] submitted a request for a new full set of dentures, both mandibular and maxillary. The request was denied the same day. The reason given for the denial was that the new set of dentures is not a covered benefit since Medicaid will only provide one (1) set of dentures per lifetime.

10. Petitioner requested a Fair Hearing on October 15, 2015. DentaQuest reviewed the hearing request on October 24, 2015 and said Petitioner only went for one (1) adjustment, and that they would consider approving new dentures if after three (3) or (4) visits there was still no improvement.

11. Petitioner has a full set of dentures that were fabricated six (6) years ago. They were not provided by Medicaid. They have wear and tear and are discolored because Petitioner drinks a lot of grape juice. Petitioner testified they fit well, but do cause sores in his mouth.

12. Dr. Dorrego stated the old dentures could be relined and repaired, but nothing could be done about the discoloration because to do so would leave the dentures weak. Petitioner said he would be satisfied with this and Dr. Dorrego said he would approve repairing the old dentures if Clear Health would agree. The parties conferred outside of the presence of the undersigned and no agreement was reached.

13. Dr. Dorrego analogized a new set of dentures to a new pair of shoes. They have to be broken in and sometimes they fit like the old pair and sometimes they do not. He said there is roughly a 50/50 chance of achieving a comparable fit. A new set of dentures could be better or they could be worse. He said a new set of dentures will not fit exactly like the old ones because Petitioner has little bone left in his mouth.

CONCLUSIONS OF LAW

14. By agreement between the Agency for Health Care Administration ("AHCA or Agency") and the Department of Children and Families, the Office of Appeal Hearings has jurisdiction to conduct this hearing pursuant to § 120.80, Fla. Stat.

15. This hearing was held as a *de novo* proceeding, in accordance with Florida Administrative Code Rule 65-2.056.

16. This is a Final Order, pursuant to Sections 120.569 and 120.57, Fla. Stat.

17. The standard of proof in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed.).

18. Legal authority governing the Florida Medicaid Program is found in Fla. Stat.

Chapter 409, and in Chapter 59G of the Florida Administrative Code. Respondent, AHCA, is the single state agency that administers the Medicaid Program.

19. The November 2011 Florida Medicaid Dental Services Coverage and Limitations Handbook ("Dental Handbook") is promulgated into law by Chapter 59G of the Florida Administrative Code.

20. Page 2-2 of the Dental Handbook states:

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.

21. Page 2-32 states:

Full and removable partial dentures may be reimbursed once for an upper, a lower or a complete set of per the lifetime of the recipient

....

Relines may be reimbursed once per denture per 366 days.

22. Page 2-32 also states:

Exceptions to the limitation of one set of dentures per lifetime of the recipient, may be considered for dentures if the dental provider determines the:

- Full or partial dentures are no longer function, because of the physical condition of the recipient; or
- Full or partial dentures are no longer functional, because of the condition of the denture.

23. Regarding relining of the old dentures, page 2-32 states: "Relines may be reimbursable regardless of whether Medicaid paid for the dentures."

24. In the instant matter, Petitioner has failed to meet his burden to prove he qualifies for an exception to the once per lifetime rule. Petitioner only went for one (1)

adjustment of his dentures. DentaQuest and [REDACTED] are in agreement that dentures can require multiple adjustments in order to get a proper fit.

DentaQuest indicated they would consider approving a new set of dentures if Petitioner went for three (3) to four (4) adjustments and they still did not fit. In order to meet his burden, Petitioner would need to show he tried multiple times to adjust the dentures before requesting a new set.

25. Dr. Dorrego said he would approve a relining and repair of Petitioner's old dentures that were not provided by Medicaid. Petitioner found this option acceptable, but Clear Health did not approve it. This issue is not under appeal at this time and therefore will not be addressed. Petitioner may want to consider requesting this as an alternative, in the event multiple adjustments of his Medicaid-provided dentures proves unsuccessful.

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.

FINAL ORDER (Cont.)

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DONE and ORDERED this 13 day of January, 2016,

in Tallahassee, Florida.

Rick Zimmer

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

[REDACTED]