

Jan 27, 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-09153

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 December 7, 2015 at 10:00 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 submitted a photograph of her teeth as evidence for the hearing, which was marked as Petitioner Exhibit 1.

Appearing as witnesses for the Respondent were Dr. Susan Hudson, Dental Director, and Jackeline Salcedo, Grievance Specialist, from DentaQuest, which is the Petitioner's dental services organization. Also present as a witness for the Respondent was Sarah Miller, Grievance and Appeals Specialist, from Humana, which is Petitioner's managed health care plan.

Respondent submitted the following documents as evidence for the hearing, which were marked as Respondent Exhibits: Exhibit 1 – Summary and Member Information; Exhibit 2 – Claim Form; Exhibit 3 – Denial notice; Exhibit 4 – Dental Services Criteria; Exhibit 5 – Dental Director Review Form.

FINDINGS OF FACT

1. The Petitioner is an adult Medicaid recipient over twenty-one years of age who is enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA) plan. She receives services under the plan from Humana, which utilizes DentaQuest for review and approval of dental services.
2. On or about August 27, 2015, the Petitioner's treating dentist (hereafter referred to as "the provider"), requested prior authorization from DentaQuest to perform dental

services, including deep gum and root cleaning on four quadrants. DentaQuest denied this request on August 31, 2015.

3. DentaQuest's denial notice to the Petitioner advised her of the following reason for the denial of her request:

Your teeth must have noticeable bone loss or show on an x-ray that there is a hard substance built up on the root of the tooth. Our dentist looked at the information sent by your dentist. This service is not needed. We have told your dentist this also. Please talk to your dentist about other options to treat your teeth.

4. Petitioner testified that she needs the requested services because her gums bleed and her teeth have hard plaque. She also stated a regular cleaning will not resolve the problems with her teeth.

5. The Respondent's expert witness, Dr. Hudson, testified that the denial of the Petitioner's request for the deep cleaning was appropriate because there must be moderate bone loss on four or more teeth in each quadrant and this was not demonstrated in the Petitioner's case. Dr. Hudson also stated there is a different dental procedure code which would be applicable where there is moderate bone loss demonstrated on one or two teeth.

6. 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

7. 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.
8. This is a final order pursuant to Fla. Stat. § 120.569 and § 120.57.
9. This hearing was held as a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.
10. The standard of proof in an administrative hearing is a preponderance of the evidence, in accordance with Rule 65-2.060 (1), Florida Administrative Code. The preponderance of the evidence standard requires proof by “the greater weight of the evidence,” (Black’s Law Dictionary at 1201, 7th Ed.).
11. 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 Handbooks are incorporated by reference in Chapter 59G-4, Florida Administrative Code.
12. 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.

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 Humana, may provide more generous benefits but cannot be more restrictive than the Medicaid guidelines contained in the Dental Handbook. The dental services requested by the Petitioner are covered services under Humana's dental plan provisions, but the services were denied due to medical necessity considerations.

15. After considering the evidence and testimony presented, the undersigned concludes the Respondent correctly denied Petitioner's request for deep cleaning. The evidence demonstrates there is a more appropriate dental procedure code which can be

utilized, and Petitioner should explore this option with her provider. In order to justify the approval of the requested services, there must be moderate bone loss in four or more teeth per quadrant and that criterion was not met in this case.

DECISION

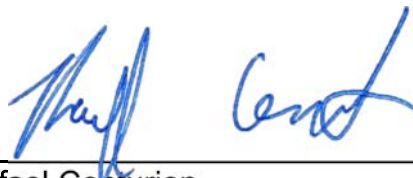
Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is DENIED.

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 27 day of January, 2016,

in Tallahassee, Florida.



Rafael Centurion
Hearing Officer
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FINAL ORDER (Cont.)

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Copies Furnished To:



Petitioner

Rhea Gray, Area 11, AHCA Field Office Manager