

Jan 29, 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-09164

PETITIONER,

Vs.

CASE NO.

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

RESPONDENT.

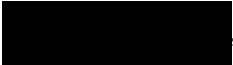
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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 17, 2015, at 9:10 a.m.

**APPEARANCES**

For the Petitioner:  Senior Program Specialist, Agency for Health Care Administration (AHCA).

For the Respondent: , the petitioner's mother.

**STATEMENT OF ISSUE**

At issue is whether the Agency's denial of a dental procedure was correct. The petitioner carries the burden of proving her case by a preponderance of the evidence.

**PRELIMINARY STATEMENT**

Present as witnesses for the respondent were Mindy Aikman, Grievance and Appeals Coordinator with Humana; Jacqueline Salcedo, Complaints and Grievances

Representative with DentaQuest; and Dr. Susan Hudson, Dental Director with DentaQuest.

[REDACTED] provided interpreter services for petitioner who is Spanish-speaking.

The respondent submitted into evidence Respondent Exhibit 1 through 3.

### **FINDINGS OF FACT**

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. The petitioner is seventeen years of age and is a Medicaid recipient living in Miami-Dade County, Florida. She is enrolled in the Medicaid MMA (Managed Medical Assistance) Program with Humana. Humana is a Managed Care Organization that has been authorized by AHCA to make certain prior service authorization decisions for individuals enrolled in Medicaid MMA Programs. [REDACTED] is contracted by Humana to provide dental services and perform prior authorization reviews.

2. [REDACTED] received a prior service authorization request from the petitioner's treating dental surgeon on June 26, 2015 for the removal of her four wisdom teeth, tooth numbers 1, 16, 17 and 32. [REDACTED] reviewed this request and provided an Authorization Determination notice to the petitioner's dental provider on June 30, 2015.

3. The above referenced notice indicated that the request for procedure code D7220 was denied. The determination reason provided indicated "there is no sign of

infection or other medical reasons for tooth removal.” Additional procedure codes were also denied, but those codes are directly related to the D7220 code procedure and are not stand alone requests.

4. [REDACTED] sent the petitioner a “Notice of Action” on June 30, 2015 regarding the above noted decision which states in part:

We made our decision because:

We determined that your requested services are not medically necessary because the services do not meet the reason(s) checked below: (See Rule 59G-1.010).

Must be necessary to protect life, prevent significant illness or disability or significant disability, or alleviate severe pain

Must be individualized, specific, consistent with symptoms or diagnosis of illness or injury and not in excess of the patient’s needs

Must meet accepted medical standards and not be experimental or investigational

5. The respondent’s dental physician witness indicated that [REDACTED] had two to three dentist review the information presented by the petitioner’s treating dental surgeon, which included the X rays, and found no evidence of infection, pathology or enough space between the teeth that would meet the criteria for the service request to be approved. She reiterated that the removal of the wisdom teeth request does not meet the medical necessity criteria to be approved.

6. The petitioner’s representative argued that the petitioner has complained to her of pain in her lower mouth and that she has a hard time eating. She indicated that the petitioner’s mouth is swollen. She also indicated that the petitioner does not take

any prescribed medication for pain except occasionally she will give her over the counter Advil.

7. The respondent witness indicated that it is normal for individuals to have some pain associated with wisdom teeth.

### **CONCLUSIONS OF LAW**

8. The Department of Children and Families, Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to § 409.285, Fla. Stat. This order is the final administrative decision of the Department of Children and Families under § 409.285, Fla. Stat.

9. This proceeding is a de novo proceeding pursuant to Fla. Admin. Code R. 65-2.056.

10. In accordance with Fla. Admin. Code R. 65-2.060 (1), the party having the burden shall establish his/her position by a preponderance of the evidence, to the satisfaction of the hearing officer.

11. The Dental Services Coverage and Limitations Handbook, dated November 2011, has been incorporated by reference into Chapter 59G-4, Fla. Admin. Code and states on page 2-15:

Extractions of all erupted teeth or exposed roots within a quadrant, same recipient and same date of service, are reimbursable with procedure code D7140, using D7140's reimbursement rate for each applicable extraction. This rule does not apply if an extraction within the quadrant is a surgical removal of an erupted tooth or the removal of an impacted tooth, which will be identified by the appropriate extraction procedure code.

12. Fla. Admin. Code R. 59G-1.010 states in part:

(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;
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. As shown in the Findings of Fact, [REDACTED] denied the petitioner's request for dental procedure code D7220, which is oral surgery to remove or extract four wisdom teeth, tooth numbers 1, 16, 17 and 32.

13. For the case at hand, the respondent indicated and argued that after review of the information submitted for the request including the X rays, [REDACTED] found no evidence of infection or pathology. However, the petitioner testified she is in constant pain to the point where she needs medications.

14. After considering the evidence and Early and Periodic Screening, Diagnosis, and Treatment Services (EPDST) requirements all of the appropriate authorities set forth in the findings above, the hearing officer concludes that the petitioner has met her

burden of proof and the Agency's action denying the petitioner's request for the dental procedures is incorrect.

**DECISION**

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

**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 29 day of January, 2016,

in Tallahassee, Florida.



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