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

[redacted]

APPEAL NO. 15F-09241

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 16, 2015 at 1:29 p.m. and reconvened on December 22, 2015 at 10:00 a.m.

APPEARANCES

For the Petitioner: [redacted] Pro se

For the Respondent: Dianna Chirino,
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) decision, through DentaQuest, to deny the Petitioner's requests for the following dental procedures:

- D4260-osseous surgery;
- D4910-periodontal maintenance; and
- D4341-periodontal scaling and root planing.

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

PRELIMINARY STATEMENT

For the December 22, 2015 proceeding, Donald Sinclair, Compliance Manager, appeared as Respondent's witness from Petitioner's managed care plan Magellan Complete Care (Magellan). Appearing as Respondent's witnesses from DentaQuest were Dr. Neil Williams, Dental Consultant, and Nicholas Calderon, Complaints and Grievance Supervisor.

Respondent submitted a 103-page document, which was entered into evidence and marked Respondent Exhibit 1.

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 Magellan Complete Care (Magellan), a Florida Health Managed Care provider.

2. Magellan requires prior authorization for services related to dental care and has subcontracted with DentaQuest to perform the prior authorization requests.

3. Petitioner's dentist submitted a prior authorization on September 21, 2015 for D4341-periodontal scaling and root planning; D4910-periodontal maintenance; and D4260-osseous surgery.

4. DentaQuest sent a Notice of Action to the Petitioner on October 19, 2015 explaining its denial of Petitioner's requests. For D4341-periodontal scaling and root planning the notice states: "This service is allowed one time every 36 months. Our records show that you received this service less than 36 months ago." For D4910-periodontal maintenance and D4260-osseous surgery the notice states: "This is not a covered service."

5. Petitioner filed a timely request for a fair hearing on November 4, 2015.

6. Petitioner asserted she is very sick from swallowing the blood from her bleeding gums and the dental procedures are medically necessary for her medical health. She further stated that without the dental services she would lose more of her teeth.

7. DentaQuest's dentist explained that procedure D4341-periodontal scaling and root planning has a service limitation of once every 36 months. He noted she received this service on October 5, 2015.

8. The dentist also advised that D4910-periodontal maintenance and D4260-osseous surgery are not covered services. He suggested that Petitioner's dentist call DentaQuest for a peer-to-peer consultation to explore alternatives that could meet the Petitioner's needs.

CONCLUSIONS OF LAW

9. 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.

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

11. 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).

12. 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.

13. Section 409.912, Florida Statutes also provides that the Agency may mandate prior authorization for Medicaid services.

14. 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.

15. 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.

16. 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 program:

> 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.

17. On page 2-3 of the Handbook it provides a description of the covered dental 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.

18. In addition to the Handbook, the Dental General Fee Schedule published by the Agency for Health Care Administration dated January 1, 2014 indicates what dental procedure codes are covered by Medicaid. Medicaid does not cover procedure code D4260 for adults (over 20 years old) and does not cover procedure code D4910 regardless of age.

19. While the Petitioner asserted she needs the deep gum and root cleaning and the surgery, Medicaid does not cover these services for adults.

20. Respondent provided sufficient testimony that the requested procedures are not covered by Medicaid and suggested Petitioner's dentist call DentaQuest for a peer-to-peer review to explore alternatives to meet her medical needs. Petitioner failed to meet her burden of proof.

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 D4260 and D4910 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.

DONE and ORDERED this 01 day of February, 2016,

in Tallahassee, Florida.

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