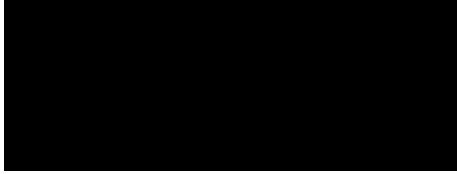


STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILIES  
OFFICE OF APPEAL HEARINGS

**FILED**

Feb 24, 2016

Office of Appeal Hearings  
Dept. of Children and Families



APPEAL NO. 15F-09284

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION  
CIRCUIT: 17 Broward  
UNIT: AHCA

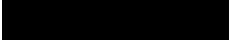
RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on February 9, 2016, at 9:00 a.m.

**APPEARANCES**

For the Petitioner:  the petitioner's mother.

For the Respondent: Linda Latson, Registered Nurse Specialist, Agency for Health Care Administration (AHCA).

**STATEMENT OF ISSUE**

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

### **PRELIMINARY STATEMENT**

Present as witnesses for the respondent were Stacey Larson, Clinical Guidance Analyst, with Humana; Jacqueline Salcedo, Complaints and Grievances Representative with DentaQuest; and Dr. Susan Hudson, Dental Director with DentaQuest.



The respondent submitted into evidence Respondent Exhibit 1 and 2.

### **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 nineteen years of age and is a Medicaid recipient living in Broward County, Florida. He is enrolled in the Medicaid MMA (Managed Medical Assistance) Program with Humana. Humana is a Managed Care Organization that is authorized by AHCA to make certain prior service authorization decisions for individuals enrolled in Medicaid MMA Programs. DentaQuest is contracted by Humana to provide dental services and perform prior authorization reviews.

2. DentaQuest received a prior service authorization request from the petitioner's treating dental surgeon on October 22, 2015 for periodontal scaling and root planning, also known as a deep cleaning, for all four quadrants of the petitioner's mouth. DentaQuest reviewed this request and provided an Authorization Determination notice to the petitioner's dental provider on October 26, 2015. The determination indicated "periodontal scaling and root planning is denied due to no evidence of bone loss." The

above referenced notice indicated procedure code D4341 was denied for each quadrant.

3. DentaQuest sent the petitioner a Notice of Action on October 26, 2015 regarding the above noted decision which states in part:

We made our decision because:

Must be necessary to protect life, to prevent significant illness or significant disability, or to 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 not be experimental or investigational;

4. The respondent's dental physician witness indicated several dentist from DentaQuest reviewed the information presented by the petitioner's treating dentist, including the X-rays, and found no evidence of bone loss that would meet the criteria for the service request to be approved. She also indicated that there was no evidence of buildup of root surface deposits on the petitioner's gums for this request, plus there was no evidence of gum disease for the petitioner to meet the medical necessity criteria. She indicated that the procedure requested is a procedure that would be done for an individual with gum disease.

5. The petitioner's representative argued that two of the petitioner's dentist agreed that the deep cleaning is necessary for the petitioner. She argued that she understood that the petitioner may not have gum disease at this time, but why wait until it was too late to have this procedure done for the petitioner.

6. The dental witness for the respondent indicated that the provisions of the EPSDT Program were reviewed for this decision. She also indicated that normal daily tooth brushing twice a day along with flossing will be sufficient preventive measures for future tooth problems for the petitioner.

### CONCLUSIONS OF LAW

7. 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.

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

9. 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.

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

#### Scaling and Root Planing

Scaling and root planing involves instrumentation of the crown and root surfaces of the teeth to remove plaque, calculus and stains. **It is indicated for patients with periodontal disease and is therapeutic, not prophylactic, in nature** [emphasis added].

This is a definitive, meticulous treatment procedure designed to remove cementum or dentin that is rough, and may be permeated by calculus, or

contaminated with toxins or microorganisms. It may be used as a definitive treatment in some stages of periodontal disease or a part of pre-surgical procedures in others.

Scaling and root planing procedures are limited to beneficiaries under 21 years of age who exhibit generalized periodontal pocket depths in the 4-5 mm range. Significant periodontal pockets must be indicated in the patient's dental record. The provider may use Appendix E, Sample Periodontal Chart, or the tooth chart in the patient's record for charting periodontal pockets.

11. 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. The State Medicaid Manual in the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services section states in part:

*5010. Overview*

*A. Early and Periodic Screening, Diagnostic and Treatment Benefit.--  
Early and periodic screening, diagnostic and treatment services (EPSDT)*

*is a required service under the Medicaid program for categorically needy individuals under age 21...*

*5110. Basic Requirements*

*OBRA 89 amended §§1902(a)(43) and 1905(a)(4)(B) and created §1905(r) of the Social Security Act (the Act) which set forth the basic requirements for the program. Under the EPSDT benefit, you<sup>1</sup> must provide for screening, vision, hearing and dental services at intervals which meet reasonable standards of medical and dental practice established after consultation with recognized medical and dental organizations involved in child health care. You must also provide for medically necessary screening, vision, hearing and dental services regardless of whether such services coincide with your established periodicity schedules for these services. Additionally, the Act requires that any service which you are permitted to cover under Medicaid that is necessary to treat or ameliorate a defect, physical and mental illness, or a condition identified by a screen, must be provided to EPSDT participants regardless of whether the service or item is otherwise included in your Medicaid plan.*

13. Section 409.913, Florida Statutes addresses “Oversight of the integrity of the Medicaid program,” with (1)(d) describing “medical necessity or medically necessary” standards and stating in relevant part: “For purposes of determining Medicaid reimbursement, the agency is the final arbiter of medical necessity.” As indicated above, this proceeding is a de novo proceeding for the purpose of the Agency reaching its final decision. The final decision making authority for this proceeding has been delegated to the hearing officer in Fla. Admin. Code R. 65-2.066.

14. As shown in the Findings of Fact, DentaQuest denied the petitioner’s request for dental procedure codes D4341, which is periodontal scaling and root planning for all quadrants of the petitioner’s mouth and also known as deep cleaning.

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<sup>1</sup> “You” in this manual context refers to the state Medicaid agency.

15. For the case at hand, the respondent argued that after review of the information submitted for the request, including the X-rays, DentaQuest found no evidence of bone loss, buildup of root surface deposits on the petitioner's gums, or any evidence of gum disease that would meet the medical necessity criteria to be approved. The hearing officer agrees with the respondent's arguments. Before the Agency can approve treatment for periodontal disease, the petitioner must show he indeed has periodontal disease, which is not the case.

16. After considering the evidence and all of the appropriate authorities set forth in the findings above, the hearing officer concludes that the petitioner has not met his burden of proof and the Agency's action denying the petitioner's request for the above noted dental procedure is correct.

### **DECISION**

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

FINAL ORDER (Cont.)  
15F-09284  
PAGE -8

DONE and ORDERED this 24 day of February, 2016,  
in Tallahassee, Florida.



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Rnea Gray, Area 11, AHCA Field Office Manager