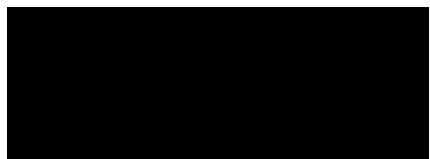


Feb 01, 2016

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

APPEAL NO. 15F-09433

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 11 Dade
UNIT: AHCARESPONDENT.

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on December 17, 2015 at 10:00 a.m.

APPEARANCES

For the Petitioner:



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 Respondent's denial of the Petitioner's request for dental/orthodontic services (braces) was correct. The Petitioner has the burden of proving her case by a preponderance of the evidence.

PRELIMINARY STATEMENT

The Petitioner did not submit any documents as evidence for the hearing.

Appearing as witnesses for the Respondent were Dr. Daniel Dorrego, Dental Consultant, and Nicolas Calderon, Grievance and Appeals Supervisor, from DentaQuest, which is the Petitioner's dental services organization. Also present as a witness for the Respondent was Mindy Aikman, 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 – Case Summary and Member Eligibility Information; Exhibit 2 – Claim Form and Chart Notes; Exhibit 3 – Notice of Action; and Exhibit 4 – Criteria/Review Forms.

FINDINGS OF FACT

1. The Petitioner is a fifteen (15) year-old Medicaid recipient 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 November 4, 2015, the Petitioner's treating dentist or orthodontist (hereafter referred to as "the provider"), requested prior authorization from DentaQuest to install braces on her teeth. DentaQuest denied this request on November 5, 2015.
3. The denial notice stated the request for braces was denied since it was not medically necessary. This denial notice also stated the following regarding the reason for the denial:

You need to get a score of 26 points on a test that gives points for crowded, missing and crooked teeth as well as spacing. Your test score was less than 26 so we cannot approve braces for you. We have told your dentist this also. Please talk to your dentist about your choices to treat your teeth.

4. Petitioner's mother testified her daughter needs the braces because she bites her lips and the braces will correct that problem. She also stated her daughter sometimes speaks with a lisp.

5. The Respondent's expert witness, Dr. Dorrego, testified that the denial of the Petitioner's request for the braces was appropriate because an individual must have a score of 26 or higher on the evaluation form which is used to assess the need for braces, and the Petitioner's score on that form was 12. He also stated he reviewed the information sent in by the Petitioner's orthodontist and there was no mention of a lisp.

6. 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.

.

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), Fla. Admin. 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 Handbook and the Dental Handbook 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. Braces are a covered service for individuals under age twenty-one (21) in the Florida Medicaid Program. The Dental Handbook, on page 2-15, states the following in reference to orthodontic services:

Orthodontic procedures may be reimbursed for Medicaid recipients under age 21.

Prior authorization is required for all orthodontic services. Orthodontic services are limited to those recipients with the most handicapping malocclusion. A handicapping malocclusion is a condition that constitutes a hazard to the maintenance of oral health and interferes with the well-being of the patient by causing impaired mastication, dysfunction of the temporomandibular articulation, susceptibility to periodontal disease, susceptibility of dental caries, and impaired speech due to malpositions of the teeth.

14. The Dental Handbook also describes an evaluation form used to assess the need for orthodontic treatment. This form is referred to as "The Medicaid Orthodontic Initial Assessment Form (IAF)" and the form calculates a numerical score based on the individual patient's conditions. The Dental Handbook, on page 2-18, describes the scores as follows:

A score of 26 or greater may indicate that treatment of the recipient's condition could qualify for Medicaid reimbursement, and the orthodontic provider should submit a prior authorization request to Medicaid for consideration of orthodontic services. A score of 26 or greater on the IAF is not a guarantee of approval. It is used by the provider to determine whether diagnostic records should or should not be sent to the orthodontic consultant.

A score of less than 26 indicates that treatment of the recipient's condition may not qualify for Medicaid reimbursement, and the request for prior authorization may be denied.

This does not say that such cases do not represent some degree of malocclusion, but simply that the severity of the malocclusion does not qualify for coverage under the Florida Medicaid Orthodontic Program.

When the IAF score is less than 26, but the strategical positioning of the malocclusion constitutes a serious impediment or threat to normal growth,

development and function of the jaws or dentition, the provider must submit a completed prior authorization, IAF, diagnostic photographs, panoramic x-ray and study models to the Medicaid orthodontic consultant for determination of medical necessity.

15. Petitioner's mother believes the braces should be approved for her daughter because she bites her lips and sometimes speaks with a lisp.

16. Respondent's witness stated that the braces were denied since the Petitioner's score on the evaluation form was less than 26 (her score was 12). He also stated there was no mention of a lisp in the records submitted for review.

17. After considering the evidence presented and relevant authorities set forth above, the undersigned concludes the Petitioner has not demonstrated that the denial of the request for the braces was incorrect. Petitioner has not established that the request for this service is medically necessary as defined by Fla. Admin. Code R. 59G-1.010(166). Although Petitioner's orthodontist requested the braces, this does not establish it is medically necessary. Respondent's witness testimony and the Handbook provisions addressing orthodontic treatment support the denial of the requested service.

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 01 day of February, 2016,

in Tallahassee, Florida.



Rafael Centurion
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662

Copies Furnished To:

 Petitioner
Rhea Gray, Area 11, AHCA Field Office Manager