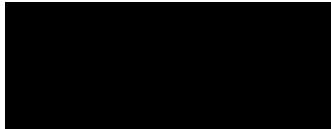


Feb 17, 2016

Office of Appeal Hearings  
Dept. of Children and Families

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



APPEAL NO. 15F-09485

PETITIONER,

Vs.

CASE NO.

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


RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 26, 2016, at 9:10 a.m.

**APPEARANCES**

For the Petitioner:  pro se.

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

**STATEMENT OF ISSUE**

At issue is the Agency action through Better Health Care/DentaQuest to deny the petitioner's request for certain dental procedures. The petitioner carries the burden of proving her case by a preponderance of the evidence.

**PRELIMINARY STATEMENT**

Present as witnesses for the respondent were Lourdes Gayo, Director of Member Services, Dr. Merlin Osorio, Medical Director, both from Better Health Care; Heidi

Penaranda, Complaint and Grievance Specialist, and Dr. Frank Manteiga, Dental Consultant, both from DentaQuest.

The record was left open for three days to obtain a statement from the petitioner and an additional four days to obtain a response from the respondent, for a total of seven days. Both parties provided statements and responses within the time frame allotted.

The respondent submitted into evidence Respondent Exhibit 1 through 3.

### **FINDINGS OF FACT**

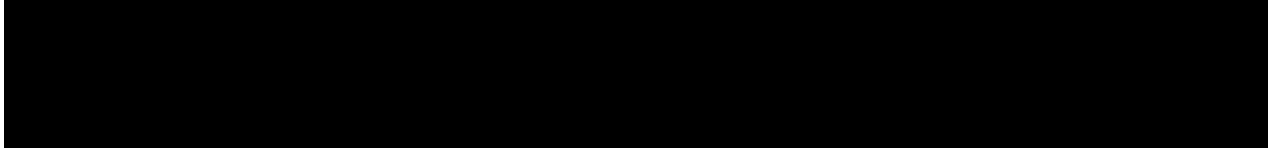
Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. The petitioner lives in [REDACTED] and is a Medicaid recipient. He is enrolled in the Medicaid MMA (Managed Medical Assistance) Program with Better Health Care. Better Health Care is a Managed Care Organization that has been authorized by AHCA to make prior service authorization decisions for individuals enrolled in Medicaid MMA Programs. DentaQuest has been authorized by Better Health to make prior service authorization decisions requests for dental care.

2. On October 31, 2015, the petitioner's treating dentist submitted a prior authorization request to DentaQuest for dental procedures. He requested procedure

[REDACTED]

[REDACTED] He also requested procedure code [REDACTED] which



3. DentaQuest sent an Authorization Determination Notice to the petitioner's treating dentist which states in regard to code [REDACTED] "Per dental director review the x-rays do not support the code requested. A less severe extraction code would be considered." [REDACTED] "Service is not covered." [REDACTED] "Per dental director review, partial is denied due to less than fifty percent bone support."

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

After our review, this service has been: Denied...



Partial lower denture

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 needed to protect life, prevent significant illness or disability, or alleviate severe pain.

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

Must meet accepted medical standards and not be experimental or investigational. Requested service is not a covered benefit

5. The respondent's dental consultant witness indicated that most of the petitioner's teeth have a seventy percent bone loss, thus an easy extraction (of problem

teeth) would be more appropriate for the petitioner. He also indicated that procedure [REDACTED] would not have a positive long term prognosis for the petitioner. He explained that [REDACTED] is a [REDACTED], thus teeth without bone, such as with the petitioner's condition, will not hold up. He further explained that the cast metal partial will put a lot of pressure on the teeth that the partial is anchored to and thus the reason for this code will be considered a "poor prognosis". He further explained the [REDACTED] is an [REDACTED] and it is more forgiving, thus it would put less pressure on the anchor teeth.

6. He offered and indicated that [REDACTED] and [REDACTED] [REDACTED] would be more appropriate dental procedures that could be approved for the petitioner if requested.

7. The DentaQuest complaint and grievance specialist witness indicated that the petitioner's dentist was advised of the alternative codes noted above, but that DentaQuest will contact the petitioner's dentist and advise him of the alternative codes. Additionally, the record was left open for the petitioner to himself contact his dentist and inform the dentist of the alternative codes.

8. The petitioner contacted this hearing official while the record was left open and verbally advised the undersigned hearing officer his dentist would not request any service for the petitioner using the alternative codes.

9. While the record was left open, DentaQuest provided a response:

DentaQuest contacted [petitioner's] dental office and was told the dentist is willing to down code the extraction from D7210 to D7140. However, he cannot down code from D5214 to D5212 since [dentist] only makes metal framework with resin base partial denture.

10. The petitioner argued that he has pain in his teeth. He argued that he cannot chew his food and must eat only soup.

### **CONCLUSIONS OF LAW**

11. 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.

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

13. 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.

14. 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:

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.

15. 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.

16. As shown in the Findings of Fact, the Agency through DentaQuest denied the request for dental procedures [REDACTED] tooth 23, 24, 25, 26 and 29,, [REDACTED], and [REDACTED].

17. For the case at hand, the respondent denied the requests for the above noted dental procedures based on not meeting medical necessity requirements. Especially, the provisions that indicate services must 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. Other than [REDACTED], the respondent had offered alternative dental codes that could provide the petitioner with teeth extractions and partial dentures. The petitioner's dentist agreed to the alternative

extraction [REDACTED], but not to the alternative partials [REDACTED].

Additionally, the respondent's dental witness made it clear that [REDACTED], a [REDACTED] [REDACTED] will give a poor prognosis for the petitioner based on the petitioner's bone loss.

[REDACTED] is not a covered benefit and was not discussed further by the petitioner's treating dentist. The bottom line for the petitioner as per his arguments is that he is in need of getting pain relief and being able to chew his food.

18. The hearing officer thus agrees that the Agency's determination to deny the dental code requests as noted above is correct.

19. 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 dental procedures is correct. The petitioner may want to explore acquiring another dental provider who is willing to request the alternative and more appropriate dental codes.

### **DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, this appeal is denied and the Agency action affirmed.

### **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   17   day of   February  , 2016,  
in Tallahassee, Florida.

*Robert Akel*

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