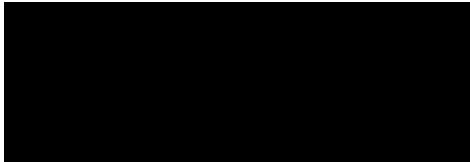


Jan 12, 2016

Office of Appeal Hearings
Dept. of Children and Families

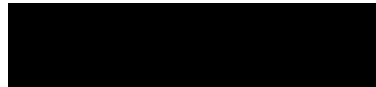
STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS



APPEAL NO. 15F-09675

PETITIONER,

Vs.



AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 15 Palm Beach
UNIT: AHCA

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, a telephonic administrative hearing in the above matter was convened on January 8, 2016 at 1:36 p.m.

APPEARANCES

For the Petitioner:



Petitioner's mother

For the Respondent:

Doretha Rouse
Registered Nurse Specialist

ISSUE

At issue is whether respondent's denial of petitioner's request for orthodontic services (braces) was correct. The burden of proof was assigned to the petitioner.

PRELIMINARY STATEMENT

Petitioner was not present for the proceeding. Petitioner's representative entered no exhibits into evidence.

Ms. Rouse appeared as both the representative and witness for the respondent. Present from DentaQuest were Dr. Susan Hudson, Dental Consultant and Jackelyn Salcedo, Compliance and Grievance Specialist. Present from Molina Healthcare (Molina) was Natalie Fernandez, Government Contract Specialist. Respondent's exhibit "1" and "2" were accepted into evidence.

Administrative notice was taken of the Florida Medicaid Provider General Handbook and the Dental Services Coverage and Limitations Handbook.

FINDINGS OF FACT

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's date of birth is [REDACTED]
2. Petitioner's Medicaid services are provided through respondent's Statewide Medicaid Managed Care Program. Since August 1, 2014 her Medicaid services have been provided by Molina.
3. Orthodontic procedures, when medically necessary, are available to Florida Medicaid recipients under the age of 21.
4. On September 4, 2015 petitioner's orthodontist [REDACTED] submitted a prior authorization request for orthodontic treatment. The request was submitted to Molina's dental vendor, DentaQuest.
5. [REDACTED] submission included an Initial Assessment Form (IAF); dental photographs; and a narrative.

6. The IAF is used to determine the severity of dental conditions, including the malocclusion of teeth. Scoring is assigned by both diagnostic observation and dental measurement.

7. An IAF score of "26" or more may indicate orthodontic treatment is warranted.

8. The referring orthodontist is not required to provide IAF scoring when one of the following conditions exist:

- Cleft palate deformities
- Deep impinging overbite. When lower incisors are destroying the soft tissue (more than an indentation)
- Crossbite of individual anterior teeth. When destruction of soft tissue is present
- Severe traumatic deviations
- Overjet greater than 9mm with incompetent lips or reverse overjet greater than 3.5 mm with reported masticatory and speech difficulties

9. The above conditions can be considered as an "auto qualifier" for braces.

10. Dr. Cooper checked "Crossbite of individual anterior teeth. When destruction of soft tissue is present." As such, no further IAF scoring was required.

11. [REDACTED] noted the following:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

12. A DentaQuest dentist thereafter reviewed [REDACTED] submissions. All DentaQuest reviewers are licensed dentists and must pass quarterly reliability examinations.

13. Based on submitted information, the DentaQuest reviewer completed an IAF. The reviewer did not identify a crossbite of individual anterior teeth accompanied with

¹ An overjet is measured in millimeters. The measurement provided by [REDACTED] is not legible.

soft tissue destruction. As an “auto qualifier” for braces was not recorded, the reviewer proceeded to score the entire IAF.

14. The DentaQuest reviewer identified an anterior open bite and anterior crowding. The total IAF score was “13”.

15. On September 8, 2015 DentaQuest notified petitioner that the request for orthodontic treatment was denied. The notice stated, in part:

To qualify for braces you need to get 26 points on a test. The test gives points for crowded, missing, and rotated teeth as well as spacing. Our Dental Director scored your teeth. You do not qualify for braces. We have told your dentist. Please talk to your dentist. You reached a score of 13 points.

16. The above denial stated petitioner could request an internal appeal.

17. Petitioner requested an internal appeal.

18. A second DentaQuest dentist thereafter reviewed all submitted information. On October 20, 2015 correspondence was issued upholding the original denial.

19. On November 19, 2015 the Office of Appeal Hearings timely received petitioner’s request for a fair hearing.

20. Petitioner’s representative confirmed the absence of the following:

- Cleft lip or palate
- Jaw problems
- Speech problems related to current dental conditions
- Facial injuries resulting in the current dental status

21. Petitioner has a dental spacer. The spacers inhibit dental hygiene.

22. Regarding a crossbite, Dr. Hudson agrees with the other DentaQuest reviewers.

Additionally, tissue damage was not demonstrated by the submitted information.

CONCLUSIONS OF LAW

23. 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 § 120.80, Fla. Stat.

24. This hearing was held as a *de novo* proceeding pursuant to Fla. Admin. Code R. 65-2.056.

25. Fla. Admin. Code R. 59G-4.060 addresses dental services and states, in part:

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook, November 2011, ... and the Florida Medicaid Provider Reimbursement Handbook, ADA Dental Claim Form, July 2008, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C.

(3) The following forms that are included in the Florida Medicaid Dental Services Coverage and Limitations Handbook are incorporated by reference: Medicaid Orthodontic Initial Assessment Form (IAF), ...

26. The Florida Medicaid Dental Services Coverage and Limitations Handbook (Dental Handbook) states, on page 2-2, "Medicaid reimburses for services that are determined medically necessary ..."

27. In regard to medical necessity for Medicaid funded services, the definition is found in Fla. Admin Code. R. 59G-1.010 and states:

(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; 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.

28. As the petitioner is under 21 years of age, Early Periodic Screening, Diagnosis, and Treatment (EPSDT) requirements apply to the evaluation of the petitioner's eligibility for orthodontic services. Section 409.905, Fla. Stat., *Mandatory Medicaid services*, defines Medicaid services for children to include:

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.--The agency shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and provide treatment to correct or ameliorate these problems and conditions. These services include all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems ...

29. In regard to EPSDT requirements, The State Medicaid Manual, published by the Centers for Medicare and Medicaid Services states, in part:

5110. Basic Requirements...

...Services under EPSDT must be sufficient in amount, duration, or scope to reasonably achieve their purpose. The amount, duration, or scope of EPSDT services to recipients may not be denied arbitrarily or reduced solely because of the diagnosis, type of illness, or condition. **Appropriate limits may be placed on EPSDT services based on medical necessity** [Emphasis Added].

30. The Findings of Fact establish orthodontic procedures are allowed for Medicaid recipients under the age of 21 to ameliorate a dental condition. The Findings of Fact also establish petitioner is under the age of 21. The issue before the undersigned, therefore, focuses upon whether the requested orthodontic services meet Florida's medical necessity criteria.

31. When considering whether the requested orthodontic service is medically necessary, analysis is further directed to the Dental Handbook. Page 2-15 states:

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 malposition of the teeth.

32. Pages 2-16 through 2-18 of continue by stating:

Orthodontic procedures are limited to recipients under age 21 whose handicapping malocclusion creates a disability and impairment to their physical development.

Criteria for approval is limited to one of the following conditions:

- Correction of severe handicapping malocclusion as measured in the Medicaid Orthodontic Initial Assessment Form (IAF) ...
- Syndromes involving the head and maxillary or mandible jaws such as cleft lip or cleft palate
- Cross-bite therapy, with the exception of one posterior tooth that is causing no occlusal interferences;
- Head injury involving traumatic deviation; or
- Orthognathic surgery, to include extractions, required or provided in conjunction with the application of braces.

...

The Medicaid Orthodontic Initial Assessment Form (IAF) is to be completed by the orthodontic provider at the initial evaluation of the recipient.

The IAF is:

- Designed for use as a guide by the provider in the office to determine whether a prior authorization (PA) request should be sent to the Medicaid orthodontic consultant; and
- A means by which the orthodontic provider may communicate to Medicaid's orthodontic consultant all the distinctive details pertaining to an individual case. ...

...

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.

33. A conflict exists between the IAF completed by petitioner's orthodontist and those completed by DentaQuest reviewers. The IAF completed by the referring orthodontist showed an "auto qualifier" for braces. This was refuted by two DentaQuest reviewers and Dr. Hudson.

34. Regarding a crossbite of interior teeth, page A-4 of the Dental Handbook requires "A minimum of 1.5 mm of tissue recession must be evident to qualify as soft tissue destruction in anterior crossbite cases."

35. The Findings of Fact do not establish whether petitioner's recession is at least 1.5 mm.

36. A hearing officer must consider all evidence; judge the credibility of witnesses; and draw permissible inferences from the evidence.

37. Compelling evidence was not presented to refute the IAF score of "13" as determined by DentaQuest reviewers.

38. It is not disputed the petitioner has a misalignment of teeth. The greater weight of evidence, however, does not establish petitioner's orthodontic status rises to the stringent requirement of a "most handicapping malocclusion" as defined by the Dental Handbook.

39. The petitioner's request for braces has not satisfied the following condition of medical necessity:

3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, ...

40. The undersigned has reviewed EPSDT and medical necessity requirements and applied such to the totality of the evidence. The petitioner has not established, by the greater weight of the evidence, that respondent's action in this matter was incorrect.

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

FINAL ORDER (Cont.)
15F-09675
PAGE - 10

petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 12 day of January, 2016,

in Tallahassee, Florida.



Frank Houston
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal.Hearings@myflfamilies.com

Copies Furnished To:

 Petitioner
Judy Jacobs, Area 7, AHCA Field Office