

**FILED**

**NOV 06 2015**

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

OFFICE OF APPEAL HEARINGS  
DEPT. OF CHILDREN & FAMILIES



APPEAL NO. 15F-08114

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION  
CIRCUIT: 19 St. Lucie  
UNIT: AHCA

RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on November 3, 2015 at 1:36 p.m.

**APPEARANCES**

For the Petitioner:



Pro Se

For the Respondent:

Doretha Rouse  
Registered Nurse Specialist

**ISSUE**

Whether respondent's denial of a partial upper denture (Procedure D5213) was proper. The burden of proof was assigned to the petitioner.

**PRELIMINARY STATEMENT**

Petitioner entered no exhibits into evidence.

Ms. Rouse appeared as both a representative and witness for the respondent.

Present for respondent from Humana was Mindy Aikman, Grievance and Appeals

Specialist. Present from DentaQuest were Dr. Frank Manteiga, Dental Consultant and Haydee Penaranda, Appeals and Grievance Specialist. Respondent's exhibit "1" and "2" were entered into evidence.

Administrative notice was taken the Dental Services Coverage and Limitations Handbook; and the Florida Medicaid Provider General 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]. At all times relevant to this proceeding, petitioner was Medicaid eligible.
2. Petitioner receives Medicaid services through respondent's Statewide Medicaid Managed Care Program. Humana is petitioner's managed care provider.
3. DentaQuest is Humana's dental vendor. All requests for dental services are reviewed by DentaQuest. DentaQuest determines whether the requested procedure is medically necessary and in compliance with pertinent rules and regulations.
4. Both Humana and DentaQuest must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook (Dental Handbook).
5. On or about September 2, 2015 DentaQuest received from petitioner's dentist an x-ray and prior authorization request for a partial upper denture. The request was then review by a DentaQuest licensed dentist.
6. On September 3, 2015 DentaQuest issued a Notice of Action to the petitioner which denied the partial upper denture. The notice stated the partial denture was not

medically necessary and "You still have enough teeth to properly chew your food, therefore, you do not qualify for a partial denture."

7. On September 23, 2015 petitioner contacted the Office of Appeal Hearings and timely requested a fair hearing.

8. Upon receipt of the hearing request, a second DentaQuest dentist reviewed submitted information and upheld the original denial. It was noted the petitioner has more than eight posterior contacts in occlusion.

9. Petitioner has 15 posterior teeth in occlusion.

10. Posterior teeth are those necessary for adequate chewing.

11. Occlusion is the contact between the upper and lower teeth when they approach each other for chewing.

12. Petitioner argues she contacted Humana and was told a partial denture is a covered service. The partial is needed as food gets trapped in her gums. She is forced to chew on one side of her mouth, only. The side of her mouth in which she chews is also missing a tooth.

13. Respondent argues a partial denture could be approved if medical necessary and the requirements enumerated in the Dental Handbook satisfied.

#### **CONCLUSIONS OF LAW**

14. By agreement between the Agency for Health Care Administration 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.

15. This is a final order pursuant to § 120.569 and § 120.57, Fla. Stat.

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

17. The standard of proof in an administrative hearing is by a preponderance of the evidence. (See Fla. Admin. Code R. 65-2060(1).) The preponderance of the evidence standard requires proof by “the greater weight of the evidence,” (Black’s Law Dictionary at 1201, 7<sup>th</sup> Ed.).

18. The Florida Medicaid Provider General Handbook (Provider Handbook) – July 2012 is incorporated by reference in the Medicaid Services Rules found in Fla. Admin. Code R. 59G-4. The Provider Handbook states on page 1-27:

Medicaid contracts with Health Maintenance Organizations (HMOs) to provide prepaid, comprehensive, cost-effective medical services to enrolled Medicaid recipients.

Medicaid pays each HMO a monthly capitation fee for managing and providing care to each enrolled recipient. In accordance with certain contractual agreements with Medicaid, the HMO provides a specified, comprehensive package of medical services for this monthly Medicaid fee. Medicaid HMOs are also required to provide quality and benefit enhancements and can provide other expanded benefits as described in this section.

19. Page 1-30 of the Provider Handbook continues by stating: “An HMO’s services cannot be more restrictive than those provided under Medicaid fee-for-service.”

20. Respondent’s Dental Handbook – November 2011 is also incorporated by reference in the Medicaid Services Rules found in Fla. Admin. Code R. 59G-4.

21. The Dental Handbook states “Medicaid reimburses for services that are determined medically necessary ...”

22. The definition of “medically necessary” is found in the Fla. Admin. Code R. 59G-

1.010, which 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; 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.

23. The Dental Handbook states on page 2-3:

Covered Adult Services (Ages 21 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.

24. The above authorities establish, if medical necessary, a partial denture is a covered Medicaid service.

25. In regard to partial dentures, pages 2-30 through 2-33 the Dental Handbook states, in part:

For all eligible Medicaid recipients, Medicaid may reimburse for the fabrication of full and removable partial dentures ...

The standard for all dentures, whether seated immediately after extractions or following alveolar healing, is that the denture be fully functional.

...

Partial dentures refer to the prosthetic appliance that replaces missing teeth and is on a framework that is removed by the patient. Prior authorization is required for reimbursement of removable partial dentures and must be submitted to the dental consultant for determination of medically necessity prior to the procedure being performed.

...

Medicaid will not reimburse for:

- Partial dentures where there are at least eight posterior teeth in occlusion; ...

26. The Findings of Fact establish petitioner has 15 posterior teeth in occlusion. No evidence was presented to challenge this number.

27. In this instant appeal, the undersigned lacks authority to waive the requirement that Medicaid will not reimburse for a partial denture when there are 8 or more posterior teeth in occlusion.

28. For a service to be approved, each criteria of medical necessity must be satisfied. The undersigned is bound by the definition of medical necessity as stated in Fla. Admin. Code R. 1.010.

29. After reviewing evidence and testimony on a comprehensive basis, petitioner has not demonstrated the partial denture is medically necessary. The following condition of medical necessity has not been satisfied:

3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, 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 10th day of November, 2015,

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@myffamilies.com

Copies Furnished To:

██████████ Petitioner  
Judy Jacobs, Area 7, AHCA Field Office