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JAN 11 2010

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

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DEPT OF CHILDREN & FAMILIES

APPEAL NO. 09F-06941

PETITIONER,

Vs.

AGENCY FOR HEALTH  
CARE ADMINISTRATION (AHCA)  
CIRCUIT: 07 St. Johns  
UNIT: AHCA

RESPONDENT.  
\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, an administrative hearing was convened telephonically before the undersigned hearing officer December 8, 2009 at 2:50 pm. The petitioner represented herself. The respondent was represented by Jill Hricz, senior human services program specialist and Mary Cerasoli, program analyst.

The record was held open until the end of the business day for submission of additional evidence which was received and entered as Respondent's Exhibit 2 and Petitioner's Exhibit 1.

**ISSUE**

The petitioner appealed the respondent's denial of her request for partial dentures. The petitioner held the burden of proof.

**FINDINGS OF FACT**

1. The petitioner (age 32) is a Title XIX Medicaid recipient.

2. The petitioner is missing one tooth in each of the four sections of her mouth.

The missing teeth are in occlusion (she is missing one opposing top and bottom tooth on each side of her mouth). In September 2009, the petitioner requested removable partial dentures (one for top two missing teeth and one for bottom two missing teeth).

3. On October 9, 2009, the respondent denied the petitioner's request. The denial notice states that the service requested "does not meet Medicaid criteria."

4. On October 14, 2009, the petitioner requested a hearing.

5. The respondent explained that removable prosthodontics such as dental partials require prior authorization. The Medicaid recipient's treating physician submits the authorization forms and the supporting clinical records to AHCA for review. The authorization decision is made by a dentist consultant employed by AHCA. In the instant case, as explained above, the petitioner is missing two teeth in occlusion on each side of her mouth. In between the missing teeth, the petitioner has ten teeth in occlusion (ten opposing teeth top and bottom). Medicaid regulations require there be fewer than eight teeth in occlusion in order to be eligible for partial dentures. As the petitioner had more than eight teeth in occlusion, her request for dental partials was denied.

6. The petitioner admits that she has ten teeth in occlusion and understands the respondent's policy regarding this issue. She believes however, that having a certain number of teeth should not be the only qualifier; the decision should be based on individual circumstances. The petitioner explained that missing the opposing top and

bottom teeth on each side of her mouth results in a huge space in which she can insert a finger. The petitioner asserted that the missing teeth are visually unpleasant. In addition, it is difficult for her to chew “tough” foods; the teeth around the spaces are sensitive to heat and cold. She would like the aforementioned factors to be taken into consideration. The petitioner stipulated that the missing teeth cause no other health problems. The respondent explained that Medicaid reimbursement criteria regarding covered dental services does not include exceptions for the reasons asserted by the petitioner. The respondent stands by its decision.

#### **CONCLUSIONS OF LAW**

By agreement between the Agency for Health Care Administration and the Department of Families and Children, the Agency for Health Care Administration has conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to Chapter 120.80 F.S.

Fla. Admin. Code 59G-4.060, Dental Services, states in part:

(1) This rule applies to all dentists enrolled in the Medicaid program for dental services under Section 409.906, F.S.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook, January 2006, updated January 2007, 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. All handbooks are available from the Medicaid fiscal agent’s Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Medicaid fiscal agent, Provider Contact Center at (800)289-7799 and selecting Option 7.

The Florida Medicaid Dental Services Coverage and Limitations Handbook, Removable Prosthodontics, page 2-32 states in part:

Exclusions – Medicaid will not reimburse for:

- **Partial dentures where there are at least eight posterior teeth in occlusion**; (emphasis added)
- Partial dentures for single tooth replacement unless it is a missing anterior tooth;
- Claims for relines and denture adjustments with the same date of service for the same recipient;
- Claims for repairs and denture adjustments with the same date of service for the same recipient; and
- The use of tissue conditioning relines.

In October 2009, the respondent denied the petitioner's request for two dental partials. Both parties stipulate that the petitioner has ten teeth in occlusion and is missing two opposing teeth (four total teeth) on each side of her mouth. The above legal authority makes it clear that fewer than eight teeth in occlusion is required for approval of dental partials. The petitioner believes each case should be individually evaluated. She believes an exception should be made because her missing teeth are visually unpleasant, it is difficult to chew certain foods and the surrounding teeth are sensitive to heat and cold. The legal authorities which govern the Medicaid Program do not include exceptions for the reasons put forth by the petitioner. After carefully reviewing the evidence and the legal authorities, it is concluded that the respondent's denial was correct.

#### **DECISION**

The appeal is denied and the respondent's action is 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 agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 11<sup>th</sup> day of January, 2010, in  
Tallahassee, Florida.

  
Leslie Green  
Hearing Officer  
Building 5, Room 255  
1317 Winewood Boulevard  
Tallahassee, FL 32399-0700  
850-488-1429

Copies Furnished To: