

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

**FILED**

Dec 01, 2015

Office of Appeal Hearings  
Dept. of Children and Families



APPEAL NO. 15F-05898

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION  
CIRCUIT: 11 Dade  
UNIT: AHCA

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on October 16, 2015 at 8:30 a.m.

**APPEARANCES**

For the Petitioner:  Petitioner

For the Respondent: Monica Otalora, Senior Program 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 services 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. However, a letter from the Petitioner was included among the Respondent's exhibits.

Appearing as witnesses for the Respondent were Dr. Susan Hudson, Dental Director, and Jackeline Salcedo, Grievance Specialist, 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 organization.

Also present for the hearing was a Spanish language interpreter, [REDACTED] Interpreter Number [REDACTED] from Propio Language Services.

Respondent submitted the following documents as evidence for the hearing, which were marked as Respondent Exhibits: Exhibit 1 – Member Information; Exhibit 2 – Claim Form; Exhibit 3 – X-rays; Exhibit 4 – Denial Letters; and Exhibit 5 – Letter from Petitioner.

### **FINDINGS OF FACT**

1. The Petitioner is a fifty-nine (59) 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 May 5, 2015, the Petitioner's treating dentist (hereafter referred to as "the provider"), requested prior authorization from DentaQuest to perform installation of

upper and lower partial metal dentures. DentaQuest denied this request on May 7, 2015.

3. DentaQuest's denial notice to the Petitioner advised her of the following reason for the denial of her request for the dentures:

In order to get a partial denture, you must have at least 50% bone support for the tooth that is still in your mouth. Our dentist looked at the x-rays sent by your dentist. You have less than 50% bone support. We have told your dentist this. Please talk to your dentist about other choices to fix your teeth.

4. Petitioner testified that she needs the dentures because she has problems with chewing her food and is afraid to smile in front of other people because of the condition of her teeth.

5. Ms. Salcedo from DentaQuest testified that Petitioner's request for the lower partial dentures had been subsequently approved; therefore, the current denial is for the upper partial dentures.

6. The Respondent's expert witness, Dr. Hudson, testified that the denial of the Petitioner's request for the upper partial metal dentures was appropriate because of the moderate to advanced bone loss in most of her upper teeth. Dr. Hudson explained that metal dentures require healthy bone support in the mouth. Dr. Hudson also advised that a resin-based denture would be more appropriate because metal dentures cannot have teeth added to the denture to replace the patient's teeth.

7. 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**

8. 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.

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

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

11. The standard of proof in an administrative hearing is a preponderance of the evidence, in accordance with Rule 65-2.060 (1), Florida Administrative Code. 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.).

12. 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 Handbooks are incorporated by reference in Chapter 59G-4, Florida Administrative Code.

13. Florida Statute § 409.912 requires that Respondent “purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care.”

14. 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.

15. Partial dentures are covered services for adults under the Medicaid Program.

The Dental Handbook, on page 2-31, describes partial dentures as follows:

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 medical necessity prior to the procedure being performed.

Removable partial dentures are reimbursable for all eligible Medicaid recipients regardless of age.

16. Petitioner testified she needs the partial dentures because she has problems chewing her food and she is afraid to smile in front of others due to the condition of her teeth. Although the Petitioner's treating dentist has requested the partial metal dentures, this does not in itself establish that this service is medically necessary according to the rule provisions outlined above.

17. Respondent's witness testified resin-based dentures are more appropriate for the Petitioner than metal dentures due to bone loss and the condition of her existing teeth.

18. After considering the evidence and testimony presented, the undersigned concludes the Respondent correctly denied Petitioner's request for the upper partial metal dentures. The evidence demonstrates that resin-based dentures are a more appropriate alternative, and Petitioner should explore this option with her provider.

### **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.

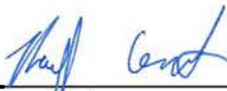
FINAL ORDER (Cont.)

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DONE and ORDERED this 01 day of December, 2015,

in Tallahassee, Florida.



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