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

FILED
Dec 03, 2015
Office of Appeal Hearings
Dept. of Children and Families

[redacted]

APPEAL NO. 15F-07669
15F-08233

PETITIONER,

Vs.

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 October 5, 2015 at 11:30 a.m. and on October 23, 2015 at 1:30 p.m.

APPEARANCES

For the Petitioner: [redacted] Petitioner

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

STATEMENT OF ISSUE

At issue is whether the Respondent's denial of the Petitioner's requests for dental services was correct. The Petitioner has the burden of proving his case by a preponderance of the evidence.

PRELIMINARY STATEMENT

The Petitioner had two separate hearing requests, which were combined for purposes of conducting the hearing. The Petitioner did not submit any documents as evidence for the hearing, other than his original hearing request which was already part of the record.

Appearing as witnesses for the Respondent were [redacted] Dental Consultant; [redacted] Dental Consultant; and [redacted] Grievance Specialist, from DentaQuest, which is the Petitioner's dental services organization. Also present as a witness for the Respondent was [redacted] Grievance and Appeals Specialist from Humana, which is Petitioner's managed health care organization.

Respondent submitted several documents as evidence for the hearing, which were marked as follows: For Appeal 15F-7669: Exhibit 1 – Member Information and Claim Form; Exhibit 2 – x-rays; Exhibit 3 – Denial Notices; Exhibit 4 – Criteria; Exhibit 5 – Dental Director Review Form; Exhibit 6 – Updated Determination Letter; For Appeal 15F-8233: Exhibit 1 – Member Information and Claim Form; Exhibit 2 – Authorization determination; Exhibit 3 – Notice of Action; Exhibit 4 – Updated Authorization determination; Exhibit 5 – DentaQuest reference manual; Exhibit 6 – Fee Schedule.

FINDINGS OF FACT

1. The Petitioner is a fifty-eight year old Medicaid recipient who is enrolled in the Statewide Medicaid Managed Care (SMMC) – Managed Medical Assistance (MMA)

plan. He receives services under the plan from Humana, which utilizes DentaQuest for review and approval of dental services.

2. On or about August 12, 2015 and September 9, 2015, the Petitioner's treating dentist (hereafter referred to as "the provider"), requested prior authorization from DentaQuest to perform various dental procedures, including dental crowns, core buildup, crown lengthening, and retreatment of previous root canal. DentaQuest denied these requests on August 13, 2015 and September 10, 2015. On September 24, 2015, DentaQuest modified its prior decision and approved dental crowns on five teeth (Tooth 3, Tooth 12, Tooth 13, Tooth 14, and Tooth 19).

3. Petitioner testified that his main concern is Tooth 12. He states he has a fistula under Tooth 13 which was caused by an infection and he cannot get a crown on Tooth 12 until the infection on Tooth 13 is resolved. Petitioner stated he needs gum surgery because this is affecting his heart condition and the gum surgery is medically necessary.

4. The Respondent's expert witness, [redacted] testified that some of the services requested by the Petitioner are non-covered services. The crown-lengthening procedure (Code D4249) is used to expose more of the tooth surface to allow placement of a crown on the tooth, but this is a non-covered service. [redacted] also stated that retreatment of a prior root canal, which is another of the services requested by Petitioner, would treat the fistula under Tooth 13 but this is also a non-covered service.

5. [redacted] from DentaQuest testified there may have been some prior confusion regarding what services had been approved and what had been denied

because two different providers submitted similar service requests and one was denied because it did not contain sufficient clinical information and one was approved since it contained more detailed information.

6. 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.

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CONCLUSIONS OF LAW

7. 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.

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

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

10. The standard of proof in an administrative hearing is a preponderance of the evidence, in accordance with Rule 65-2.060 (1), Fla. Admin. Code. The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed.).

11. 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 Handbook and the Dental Handbook are incorporated by reference in Chapter 59G-4, Florida Administrative Code.

12. 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.

13. The Florida Medicaid Program provides limited dental services for adults. The Dental Handbook describes the covered services for adults as follows on page 2-3:

> 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.

14. Managed care plans, such as Humana, may provide more generous benefits but cannot be more restrictive than the Medicaid guidelines contained in the Dental

Handbook. Petitioner's managed care plan has approved several dental crowns for the Petitioner but denied the remaining requested services as being non-covered services.

15. Petitioner stated his requested services are medically necessary and he needs gum surgery because of his heart condition.

16. Respondent's witnesses did not admit or deny that the services requested by Petitioner are medically necessary, but stated that the requested services are non-covered services.

17. After considering the evidence and testimony presented, the undersigned concludes that the Petitioner has not demonstrated that the requested services should have been approved by DentaQuest or Humana. Although the services may be medically necessary, the services requested (core buildup, crown lengthening, and retreatment of prior root canal) are non-covered services for adults under the Medicaid guidelines referenced above and under the Humana Medicaid dental plan. Therefore, the hearing officer cannot make a determination that these services must be covered by the Petitioner's plan.

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.

DONE and ORDERED this 03 day of December, 2015,

in Tallahassee, Florida.

Rafael Centurion
Hearing Officer
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Copies Furnished To: [redacted] Petitioner
Rhea Gray, Area 11, AHCA Field Office Manager