

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

FILED

Dec 10, 2015

Office of Appeal Hearings
Dept. of Children and Families



APPEAL NO. 15F-07674

PETITIONER,

Vs.

AGENCY FOR HEALTH
CARE ADMINISTRATION
CIRCUIT: 04 Duval
UNIT: AHCA

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on November 6, 2015 at 1:23 p.m.

APPEARANCES

For the Petitioner: [REDACTED] mother

For the Respondent: Sheila Broderick, registered nurse specialist

STATEMENT OF ISSUE

Whether dental services the petitioner requested through Medicaid are medically necessary. The burden of proof was assigned to the petitioner.

PRELIMINARY STATEMENT

The Agency for Health Care Administration (Agency or AHCA or respondent) administers the Florida Medicaid Program. Medicaid rules require that most recipients receive their Medicaid services through the Managed Care Plan. The Agency contracts

with numerous health care organizations to provide medical services to its program participants. Molina Healthcare (Molina) is the contracted health care organization in the instant case. Molina subcontracts with DentaQuest of Florida (DentaQuest) to provide dental services. DentaQuest took the action currently under appeal.

By notice dated August 18, 2015, DentaQuest informed the petitioner that her request for root canal therapy and a porcelain crown for tooth #14 was denied in part. The noticed explains that the porcelain crown was denied because “you have a cap on your teeth. Your dentist asked to put a new cap on the same tooth. The x-rays of your tooth do not show that you have a cavity under the old cap. It is not medically necessary to replace the cap on your tooth. ...” The notice continued to inform the petitioner that prior authorization was not required for root canal therapy.

The petitioner timely requested a hearing to challenge the denial decision on September 9, 2015.

There were no additional witnesses for the petitioner. The petitioner did not submit exhibits.

Present as witnesses for the respondent were Carlos Galvez, government contract specialist with Molina; Jackelyn Salcedo, grievance and compliance officer with DentaQuest; and Dr. Susan Hudson, dental consultant with DentaQuest. Respondent’s Composite Exhibit 1 was admitted into evidence.

The record was held open until close of business on November 13, 2015 for the submission of additional evidence. Evidence was received from the respondent and

admitted as Respondent's Composite Exhibit 2. No additional evidence was received from the petitioner.

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. The petitioner (age 15) is a Florida Medicaid recipient. The petitioner is enrolled with Molina HMO. DentaQuest is the contracted dental provider for Molina enrollees.

2. The petitioner underwent root canal therapy on tooth #14 approximately two years ago. The tooth was capped with a stainless steel crown. The petitioner has experienced chronic pain and sensitivity to heat/cold since the procedure was performed.

3. The petitioner is no longer a patient of the dentist who performed the original root canal. The petitioner's current dentist, [REDACTED] submitted a prior service authorization to DentaQuest on August 14, 2015 to perform another root canal on tooth #14 and to replace the stainless steel crown with a porcelain crown.

4. DentaQuest's written response explained that root canal therapy does not require prior service authorization. DentaQuest determined that the porcelain crown was not medically necessary because the tooth showed no signs of decay.

5. Jackelyn Salcedo, grievance and compliance officer with DentaQuest and Dr. Susan Hudson, dental consultant with DentaQuest, testified as witnesses for the Agency. The testimony of the DentaQuest witnesses, regarding the reason the

porcelain crown was denied, was not consistent with the denial reason cited in the notice. The witnesses testified that the porcelain crown was denied because original root canal was not performed properly; the tooth was not correctly filled. The petitioner's dentist must properly fill the tooth and then submit another prior service authorization request for the porcelain crown. The new request should include updated x-rays which prove the required dental work has been performed.

6. DentaQuest could not explain the discrepancy between the denial reason cited on the notice and the verbal explanation of the denial.

7. The petitioner's mother asserted that the petitioner's pain is so severe at times she cannot attend school. The frequency and the severity of the pain have increased over time. The petitioner's dental issues have greatly impacted her day to day life. The petitioner's mother argued that the opinion of the treating dentist who has examined the petitioner and concluded that she requires a porcelain crown should carry great weight.

8. Dr. Hudson, DentaQuest dental consultant, testified that the industry standard of care specifies use of stainless steel crowns for small children only. Industry standard of care specifies use of porcelain crowns for teenagers like the petitioner.

CONCLUSIONS OF LAW

9. By agreement between the 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.

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

11. In accordance with Fla. Admin. Code § 65-2.060 (1), the burden of proof was assigned to the petitioner. The standard of proof in an administrative hearing is by a preponderance of the evidence. The preponderance of the evidence standard requires proof by "the greater weight of the evidence," (Black's Law Dictionary at 1201, 7th Ed.). In the instant case, such means the petitioner must establish that orthodontic services were incorrectly denied by the respondent.

12. All Medicaid services must be medically necessary. The definition of medical necessity is found in the 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.

13. 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. ...

14. The petitioner is under 21, a broader definition of medically necessary applies to include the Early and Periodic Screening, Diagnosis, and Treatment Services (EPSDT) requirements. 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,

15. The Florida Medicaid Dental Handbook states on page 1-2: The children's dental program provides full dental services for all Medicaid eligible children age 20 and below.

16. The petitioner's treating dentist requested prior service authorization to repeat root canal therapy on tooth #14 and to replace her current stainless steel crown with a porcelain crown.

17. DentaQuest witnesses acknowledged that the original root canal was not done properly and corrective action is required. DentaQuest also acknowledged that

the industry standard of care specifies that stainless steel crowns should only be used for small children. Industry standard specifies use of porcelain crowns for teenagers like the petitioner. DentaQuest argued that the petitioner's dentist must correct the root canal, a procedure that does not require prior service authorization, and then file a prior service authorization for the porcelain crown.

18. DentaQuest's position is not supported by the controlling legal authorities. EPSDT provides a broader definition of medical necessity for children under age 21. EPSDT requires provision of all services determined to be medically necessary to treat, correct or ameliorate the condition.

19. The undisputed evidence proves that it is medically necessary to repeat the root canal on tooth #14. The undisputed evidence also proves that the petitioner's current stainless steel crown does not meet the industry standard for someone her age. Medicaid rule requires that services be consistent with generally accepted professional medical standards.

20. After carefully reviewing the evidence and controlling legal authorities, the undersigned concludes that the petitioner met her burden of proof in this matter. The petitioner proved that it is medically necessary for her to receive a porcelain crown for tooth #14. The Agency's denial decision was incorrect.

21. No ruling is required for the root canal therapy because, as previously noted, root canal therapy does not require prior service authorization.

DECISION

The appeal is GRANTED.

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 10 day of December, 2015,

in Tallahassee, Florida.



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