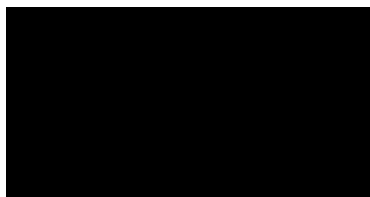


Jan 25, 2016

Office of Appeal Hearings
Dept. of Children and Families

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



APPEAL NO. 15F-09709

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH
CARE ADMINISTRATION
CIRCUIT: 13 Hillsborough
UNIT: AHCA


RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on January 6, 2016, at approximately 3:05 p.m.

APPEARANCES

For Petitioner:  Petitioner's mother

For Respondent: Stephanie Lang, Registered Nurse Specialist
Agency for Health Care Administration

STATEMENT OF ISSUE

Whether the Agency was correct in denying Petitioner's requests for extractions of tooth numbers 1, 16, and 32. Petitioner's requests for extractions of teeth 1 and 32 were approved prior to hearing, so this order will only address the remaining denied extraction for tooth 16. The burden of proof on this issue was assigned to the Petitioner by a preponderance of the evidence.

PRELIMINARY STATEMENT

Petitioner's mother appeared and provided testimony. Appearing as witnesses for Respondent were Carlene Brock (Quality Operations Nurse with Amerigroup), Jacklyn Salcedo (Complaints and Grievance Specialist with DentaQuest) and Dr. Daniel Dorrego, D.D.S. (Dental Consultant Reviewer with DentaQuest).

Petitioner submitted no documentary exhibits. Respondent submitted nine exhibits into evidence, which were marked and entered as Respondent's Exhibits 1 through 9. The hearing officer took administrative notice of Florida Statutes Sections 409.910, 409.962, 409.963, 409.964, 409.965, 409.973, Florida Administrative Code Rules 59G-1.001, 59G-1.010, and 59G-4.060, and the Florida Medicaid Dental Services Coverage and Limitations Handbook (November 2011).

FINDINGS OF FACT

Based on the oral and documentary evidence presented at the fair hearing and on the entire record of this proceeding, the following Findings of Fact are made:

1. Petitioner is a Medicaid recipient under 21 years of age. She had a lot of pressure and pain due to her wisdom teeth. Her dentist referred her to an orthodontist and oral surgeon for review and extraction. She bleeds often because she uses her back teeth and swollen gums to chew.

2. On or about November 27, 2015, Petitioner's dentist submitted a prior authorization request to Amerigroup for extraction of impacted teeth 1, 16, and 32. The remarks note that Petitioner is in pain, has [REDACTED] swollen gum tissue, moderate crowding, and wakes up at night due to teeth pressure. DentaQuest

handles the prior authorization reviews for Amerigroup members. Amerigroup requires prior authorization for some treatments for children under 21.

3. On December 1, 2015, Amerigroup denied Petitioner's request for the extractions because the documentation provided did not indicate medical necessity. Specifically, the December 1, 2015 denial stated:

The information your dentist sent shows your tooth does not need to be removed. Your tooth has no sign of infection and your dentist has not told us that you are in pain. Please follow up with your dentist.

4. DentaQuest re-reviewed Petitioner's submission on December 16, 2015.

[REDACTED]

DentaQuest could not prior authorize the request for tooth number 32 because it was already authorized and paid under another claim. However, DentaQuest did approve extraction of upper tooth number 1, based on the dentist's remarks in the original submission. The dental consultant reviewed the x-rays and determined tooth number 1 was impacting the root of tooth number 2 and needed to be extracted.

5. DentaQuest did not approve extraction of upper tooth number 16. The dental consultant reviewed the x-rays and determined tooth number 16 is not impacting the root of tooth number 15, and should erupt normally.

CONCLUSIONS OF LAW

6. 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 Chapter 120.80, Florida Statutes.

7. This is a final order pursuant to Sections 120.569 and 120.57, Florida Statutes.

8. This hearing was held as a de novo proceeding pursuant to Florida

Administrative Code Rule 65-2.056.

9. Section 409.912, Florida Statutes, notes that AHCA shall purchase goods and services for Medicaid recipients in the most cost-effective manner possible, consistent with the delivery of quality medical care. The statutes further provide that AHCA shall contract on a prepaid or fixed-sum basis with appropriately licensed prepaid dental health plans to provide dental services.

10. The Florida Medicaid Provider General Handbook (Provider Handbook) – July 2012 is incorporated by reference in Florida Administrative Code Rule 59G-4. In accordance with the Florida law, the Provider Handbook discusses managed care coverage, stating 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.

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

12. All Medicaid services must be medically necessary. Florida Administrative Code, 59G-1.010(166), defines 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; 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. The Medicaid Dental Services Coverage and Limitations Handbook (November 2011) (Dental Handbook) is promulgated into law by Rule 59G-4.060(2), Florida Administrative Code.

14. As 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 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 Dental Handbook states on page 2-2: “Medicaid reimburses for services that are determined medically necessary...”

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

Covered Child Services (Ages under 21):

The Medicaid children’s dental services program may provide reimbursement for diagnostic services, preventive treatment, restorative, endodontic, periodontal, surgical procedures and extractions, orthodontic treatment, and full and partial dentures (fixed and removable) for recipients under age 21.

Note: See the Florida Medicaid Provider Reimbursement Schedule for information on which dental procedure codes apply to recipients under age 21.

18. Extractions are covered under Medicaid for children under 21 if the extraction is medically necessary. In this case, the only testimony as to the medical need for the extraction of tooth number 16 is from DentaQuest’s dental consultant.

19. In the absence of contrary testimony, Petitioner was unable to meet her burden of proof that tooth number 16 is a medically necessary extraction. Although her treating dentist initially recommended the extraction, that does not make it medically necessary under Medicaid’s rules.

20. After careful review of the relevant authorities, the testimony and the evidence in this matter, the hearing officer concludes that the Agency properly denied Petitioner’s request.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, Petitioner's appeal is DENIED, and the Agency'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 petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 25 day of January, 2016,

in Tallahassee, Florida.



Danielle Murray
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
Office: 850-488-1429
Fax: 850-487-0662
Email: Appeal.Hearings@myflfamilies.com

Copies Furnished To: [REDACTED] Petitioner
Don Fuller, Area 6, AHCA Field Office Manager