



STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION  
OFFICE OF FAIR HEARINGS

**FILED**

Jan 24, 2023, 9:21 am

OFFICE OF FAIR HEARINGS

[REDACTED],

PETITIONER,

AHCA Case No.: 22-FH1861

Plan ID No.: [REDACTED]

vs.

DENTAQUEST OF FLORIDA, INC.,

RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Fair Hearing on the instant case on December 15, 2022, at 9:00 a.m. Eastern Standard Time (“EST”).

**APPEARANCES**

For the Petitioner:

[REDACTED]

Authorized Representative

For the Respondent:

Katie Sikes  
Complaints and Appeals Specialist  
DentaQuest of Florida, Inc.

**STATEMENT OF ISSUE**

The issue is whether Petitioner proved by a preponderance of the evidence that Respondent’s denial of dental services was incorrect.

**PRELIMINARY STATEMENT**

All parties appeared for the Fair Hearing telephonically. [REDACTED] (“[REDACTED]”), Petitioner’s Authorized Representative and [REDACTED], appeared for the Fair Hearing to provide testimony on behalf of Petitioner and did not call any witnesses.

Katie Sikes (“Ms. Sikes”), a Complaints and Appeals Specialist for DentaQuest of Florida, Inc. (“DentaQuest”), appeared for the Fair Hearing as representative for Respondent.

The following persons appeared for the Fair Hearing as an observer: Doris Rivera, a Medical Health Care Program Analyst for the Agency for Health Care Administration (“Agency” or “AHCA”); and Alani Day, a Hearing Officer for AHCA.

Prior to the Fair Hearing, Petitioner sent to the Office of Fair Hearings and Respondent a 4-page evidence packet, which was combined and admitted into evidence a Petitioner’s Composite Exhibit 1. Petitioner’s Composite Exhibit 1 includes the following documents: an email cover sheet; a letter (unsigned and undated); a dental radiograph (undated); and an invoice.

Prior to the Fair Hearing, Respondent sent to the Office of Fair Hearings and Petitioner a 27-page evidence packet, which was admitted into evidence a Respondent’s Composite Exhibit 1. Respondent’s Composite Exhibit 1 includes the following documents: an Order Scheduling Fair Hearing by Telephone and Prehearing Instructions (“Scheduling Order”) (dated November 7, 2022); an ADA Dental Claim Form (Claim/Adjustment Number: [REDACTED]); a Notice (dated July 1, 2022); DentaQuest internal information; a Notice of Plan Appeal Resolution (“NPAR”) (dated July 14, 2022); and Exhibit B Benefits Covered for Florida (FL) Statewide Medicaid Dental Health Program – Children Medicaid & MediKids Medicaid.

#### **FINDINGS OF FACT**

1. Petitioner is an enrolled member of DentaQuest. *See* Respondent’s Composite Exhibit 1, page 10. DentaQuest is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in the state of Florida.

2. As of the date of the Fair Hearing, Petitioner is [REDACTED]. *Id.* at 10. Petitioner's dental provider is Dr. Dianoris Lora ("Dr. Lora"). *Id.* at 10. On June 27, 2022, Petitioner submitted an ADA Dental Claim Form requesting the following dental service: D2331 (tooth #2) (surface white filling on front Tooth C DL). *Id.* at 10, 12. Petitioner received the service on [REDACTED]. *Id.* at 12-17. At the time of the request, Petitioner had already turned [REDACTED].

3. On July 1, 2022, DentaQuest issued a Notice to Petitioner denying Petitioner's request for dental services. *Id.* at 12-17. The Notice explained that the requested dental service was denied because it is not covered under Petitioner's benefit plan. *Id.*

4. On July 13, 2022, Petitioner requested a plan appeal due to being misinformed by Petitioner's dental provider about Petitioner's dental coverage. *Id.* at 19. On July 14, 2022, DentaQuest issued an NPAR upholding the denial of dental services. *Id.* at 22-23.

5. On October 10, 2022, [REDACTED] requested a Fair Hearing on behalf of Petitioner regarding the denial of dental services. On November 7, 2022, the undersigned Hearing Officer issued a Scheduling Order to all parties of record scheduling the Fair Hearing to be conducted by telephone on December 15, 2022, at 9:00 a.m. EST. *Id.* at 2-8. At the onset of the Fair Hearing, both parties agreed that Petitioner had already received the services at issue, and Petitioner may be held financially liable if Respondent does not approve the services upon [REDACTED]' signing a financial agreement with the dental provider. According to [REDACTED]' testimony presented at the Fair Hearing, Petitioner received a bill for the dental services rendered.

6. According to Ms. Sikes' testimony presented at the Fair Hearing, DentaQuest denied Petitioner's request for dental services based on the member's benefit limitations and age set forth by the Florida Medicaid program. *See Respondent's Composite Exhibit 1, page 27.*

Petitioner's request was not reviewed for medical necessity and EPDST because it is not a covered service and was not submitted as a prior authorization; it was submitted as a claim form after services rendered.

7. DentaQuest relied upon Exhibit B Benefits Covered for Florida Statewide Medicaid Dental Health Program – Children Medicaid & MediKids Medicaid in making its request determination.

*Id.* at 27. The Florida Medicaid program provides the following benefit limitation with respect to Petitioner's request for dental services:

Code: D2331

Brief Description: resin-based composite – two surfaces, anterior

**Age Limitation: 7-11**

Teeth Covered: Teeth 6 - 11, 22 - 27, C, H, M, R

Review Required: No

Benefit Limitations: One of (D2140, D2150, D2160, D2161, D2330, D2331, D2332, D2335, D2391, D2392, D2393, D2394) per 36 Month(s) Per patient per tooth, per surface.

Respondent's Composite Exhibit 1, page 27. (Emphasis added).

### **CONCLUSIONS OF LAW**

8. The Agency's Office of Fair Hearings has jurisdiction over the subject matter of this proceeding and the parties pursuant to section 409.285(2) of the Florida Statutes (2019). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

9. This hearing was held as a *de novo* proceeding pursuant to Florida Administrative Code Rule ("Fla. Admin. Code R.") 59G-1.100(17)(b).

10. Because Petitioner is requesting a new service, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to Petitioner. The standard of proof in an administrative hearing is 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.).

11. Petitioner’s request for dental services is governed by the Florida Medicaid Dental Coverage Policy (August 2018) (“Dental Policy”), which is incorporated by reference in Fla. Admin. Code R. 59G-4.060. See Respondent’s Composite Exhibit 1, pages 51-58. The Dental Policy provides the following, in pertinent part:

**1.0 Introduction**

Florida Medicaid provides dental services for the study, screening, assessment, diagnosis, prevention, and treatment of diseases, disorders, and conditions of the oral cavity.

...

**4.0 Coverage Information**

**4.1 General Criteria**

Florida Medicaid reimburses for services that meet all of the following:

- Are determined to be medically necessary
- Do not duplicate another service
- Meet the criteria as specified in this policy

...

**4.2 Specific Criteria**

Florida Medicaid covers dental services in accordance with the American Dental Association’s Current Dental Terminology Manual, the American Academy of Pediatrics’ Periodicity Schedule, and **the applicable Florida Medicaid fee schedule(s)**, or as specified in this policy:

...

**4.3 Early and Periodic Screening, Diagnosis, and Treatment**

As required by federal law, Florida Medicaid provides services to eligible recipients under the age of 21 years, if such services are medically necessary to correct or ameliorate a defect, a condition, or a physical or mental illness. Included are diagnostic services, treatment, equipment, supplies, and other measures described in section 1905(a) of the SSA, codified in Title 42 of the United States Code 1396d(a). As such, services for recipients under the age of 21 years exceeding the coverage described within this policy or the associated fee schedule may be approved, if medically necessary. For more information, please refer to Florida Medicaid’s Authorization Requirements Policy.

...

**5.0 Exclusion**

**5.1 General Non-Covered Criteria**

Services related to this policy are not covered when any of the following apply:

- The service does not meet the medical necessity criteria listed in section 1.0
- The recipient does not meet the eligibility requirements listed in section 2.0
- The service unnecessarily duplicates another provider’s service

## 5.2 Specified Non-Covered Criteria

Florida Medicaid does not cover the following as part of this service benefit:

- Anesthesia for restorative services, when billed separately
- Dental screening and assessment performed by an RDH on the same date of service as an evaluation performed by a dentist
- Fixed partial dentures for recipients 21 years and older
- Full mouth scaling performed on the same date of service as root planning or periodontal scaling
- Individual periapical radiographs(s) on the same date of service when the reimbursement amount exceeds that of a complete series
- Intraoral-completes series and a panoramic film on the same date of service

(Emphasis added).

12. Because Petitioner is under the age of 21 years, the requirements of Early and Periodic Screening, Diagnostic, and Treatment (“EPSDT”) apply. According to 42 U.S.C. § 1396d(r)(5), EPSDT services mean, in relevant part, the following items and services:

### (3) Dental Services

(A) which are provided –

- (i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and
- (ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

Further, according to 42 U.S.C. § 1396d(r)(5), EPSDT include, the following items and services:

Such other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illness and conditions discovered by the screen services, whether or not such services are covered under the state plan.

13. The Florida Medicaid Definitions Policy (August 2017) (“Definitions Policy”), incorporated by reference in Fla. Admin. Code R. 59G-1.010, contains definitions of commonly used terms that

are applicable to all sections of Rule Division 59G, Florida Administrative Code (F.A.C.), unless specifically stated otherwise in a service-specific coverage policy or rule. The Definitions Policy provides as follows:

**2.83 Medically Necessary or Medical Necessity**

The medical or allied care, goods, or services furnished or ordered must meet the following conditions:

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate pain
- 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
- Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational
- 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
- Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient’s caretaker, or the provider

**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.**

(Emphasis added).

16. Petitioner requested a Fair Hearing based on the denial of a surface white filling (code D2331). *See supra* ¶ 3, 5, 7. In the notice, Respondent denied Petitioner’s request because the requested dental service is not covered under the Florida Medicaid program. *See supra* ¶ 3. Respondent based their decision on Exhibit B Benefits Covered for Florida Statewide Medicaid Dental Health Program – Children Medicaid & MediKids Medicaid. *See supra* ¶ 7.

17. As Petitioner bears the burden of proof, Petitioner must show that Respondent’s decision was incorrect. Thus, Petitioner must show that this requested dental service (D2331) is a covered

benefit under their dental plan and that they have not exceeded their benefit allowance. As provided in Exhibit B Benefits Covered for Florida Statewide Medicaid Dental Health Program – Children Medicaid & MediKids Medicaid (see page 27 of Respondent Composite Exhibit 1), D2331 is not listed as a covered benefit for recipients over the age of 11 years. Here, at the time of the request Petitioner was outside of the requisite age range for benefit coverage. The record indicates that the Petitioner is [REDACTED], *supra* ¶ 2, and thus, this benefit is not available to them under the Florida Medicaid program. The record supports a finding that the requested dental service is not a covered service for the Petitioner.

18. The undersigned Hearing Officer considered the ADA Dental Claim form as a professional recommendation from Petitioner’s dental provider. See *supra* ¶ 2. However, the submission of the ADA Dental Claim, *prima facie*, does not make the requested dental service a covered service. See *supra* ¶ 15. Section 2.83 of the Definitions Policy mandates that “[t]he 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.” See *supra* ¶ 15. Therefore, the dental provider’s recommendation does not, in itself, make the requested dental services a covered benefit. In other words, just because the dentist recommended the services does not mean that the services are automatically covered. The dentist must show that what is being requested by Petitioner is a covered Medicaid service; here, Petitioner’s dental provider did not. Also, Respondent did not base their decision on medical necessity or EPDST. See *supra* ¶ 3, 6. It appears this request was denied administratively, and was correctly denied.


19. Notwithstanding the coverage limitation, as Petitioner is under the age of 21, Petitioner may still be entitled to the service if [REDACTED] can show that it was medically necessary for [REDACTED] to receive it. Here, there was no evidence that it medically necessary for [REDACTED] to receive the service.

20. Upon consideration of the testimony provider, evidence submitted, and applicable policies, the undersigned concludes that Petitioner did not prove by a preponderance of the evidence that the requested services are medically necessary. Looking at all the evidence relevant to the particular needs of Petitioner, Petitioner has not shown that the requested services are necessary to provide “relief of pain and infections, restoration of teeth, and maintenance of dental health” or to correct or ameliorate a defect or a physical and mental illness or condition. Accordingly, the undersigned finds that Petitioner has not proved by a preponderance of the evidence that Respondent’s denial of dental services was incorrect.

**IT IS THEREFORE ORDERED AND ADJUDGED:**

Respondent’s denial of dental services (D2331) is hereby **AFFIRMED**. Petitioner’s appeal based on Respondent’s denial is hereby **DENIED**.

**DONE AND ORDERED** this 24th day of January, 2023, in Tallahassee, Leon County, Florida.

Joseph Mabry  
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**JOSEPH MABRY, Hearing Officer**  
**Agency for Health Care Administration**  
**Office of Fair Hearings**  
**2727 Mahan Drive, Mail Stop # 11**  
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**NOTICE OF A RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY, ALONG WITH THE FILING FEE PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

**Copies Furnished To:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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