



FILED

May 17, 2023, 11:36 am

OFFICE OF FAIR HEARINGS

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

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH0411

Plan ID No.: [REDACTED]

vs.

DENTAQUEST OF FLORIDA, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Fair Hearing in the instant case on April 11, 2023, at 1:00 p.m. Eastern Standard Time ("EST").

APPEARANCES

For the Petitioner:

[REDACTED]

Authorized Representative

For the Respondent:

Shonda Rushing
Complaints and Grievances 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.

Shonda Rushing, a Complaints and Grievances Specialist for DentaQuest of Florida, Inc. (“DentaQuest”) appeared for the Fair Hearing as representative for Respondent. Dr. Susan Hudson (“Dr. Hudson”), a Dental Consultant for DentaQuest, appeared for the Fair Hearing as a witness for Respondent.

The following persons appeared for the Fair Hearing as an observer: Suzanne Chillari, a Medical Health Care Program Analyst for the Agency for Health Care Administration (“Agency” or “AHCA”); and Kamisha Pressley, a Hearing Officer for the Agency.

Interpreter Karina, a Spanish Interpreter, appeared for the Fair Hearing to provide language translation services on behalf of Petitioner.

Petitioner did not introduce any exhibits at the Fair Hearing. Prior to the Fair Hearing, Respondent sent to the Office of Fair Hearings (“Office”) and Petitioner a 68-page evidence packet, which was admitted into evidence as 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 March 22, 2023) – English and Spanish; an ADA Dental Claim Form (Claim/Adjustment Number: [REDACTED]); a Notice of Adverse Benefit Determination (“NABD”) (dated January 12, 2023) – Spanish and English; a DentaQuest – Authorization Determination (dated January 12, 2023); a Dental radiograph (dated January 12, 2023); a Dental narrative; DentaQuest’s plan appeal information; a Notice of Plan Appeal Resolution (“NPAR”) (dated January 23, 2023) – Spanish and English; a

DentaQuest – Authorization Determination (dated January 23, 2023); Exhibit B Benefits Covered for Florida (“FL”) Statewide Medicaid Dental Health Program – Children Medicaid & MediKids Medicaid; DentaQuest internal criteria – 18.01 Criteria for Dental Extractions; DentaQuest internal criteria – 18.02 Criteria for Cast Crowns; DentaQuest internal criteria – 18.09 Criteria for General Anesthesia and Intravenous (IV) Sedation; DentaQuest internal criteria – 18.10 Criteria for Periodontal Treatment; DentaQuest internal criteria – 16.00 Radiology Requirements; and DentaQuest internal criteria – 16.01 Criteria for Radiographs.

FINDINGS OF FACT

1. Petitioner is an enrolled member of DentaQuest. See Respondent’s Composite Exhibit 1, pages 15, 31. 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 15. Petitioner’s Dental provider is [REDACTED] (“[REDACTED]”). *Id.* at 15, 34. [REDACTED] submitted an ADA Dental Claim Form requesting the following Dental services: [REDACTED] [REDACTED] *Id.* at 15. Petitioner submitted a Dental radiograph and a Dental narrative. *Id.* at 34-36. DentaQuest’s Dental Consultant, Dr. Burke, approved the following Dental services: D7230 ([REDACTED]), D9222, D9223 (x1), and D9610. *Id.* at 31-32. At the Fair Hearing, both parties agree that teeth [REDACTED] are Petitioner’s wisdom teeth.

3. On January 12, 2023, DentaQuest issued an NABD *denying* Petitioner’s request for Dental services, *supra* ¶ 2, based on medical necessity. *Id.* at 26-30. The NABD explained the basis of the denial of Dental services as follows, in pertinent part:

DentaQuest has reviewed your request for **D0383 - CT scan; D7230 - extraction of impacted tooth with some bone, [REDACTED]; D7230 - extraction of impacted tooth**

with some bone, [REDACTED]; D9223 - general anesthesia - each 15 minutes, which we received on January 12, 2023.

After our review, this service has been: **DENIED** as of 1/12/2023.

We made our decision because:
(Check all boxes that apply)

We determined that your requested services are not medically necessary because the services do not meet the reason(s) checked below: (See Rule 59G-1.010)

...

- Must be needed to protect life, prevent significant illness or disability, or alleviate severe pain.
- Must be individualized, specific, consistent with symptoms or diagnosis of illness or injury and not be in excess of the patient's needs.

...

The facts that we used to make our decision are:

Anesthesia is a medicine your dentist will use to make you relax or sleep during your treatment. The goals of using this medicine are to 1) guard against safety and well-being; 2) reduce your physical discomfort and pain; 3) control your anxiety; 4) change your actions or movement so the dentist can safely complete the procedure; and 5) return you to a state after the procedures that it is safe for your dentist to send you home. The goals are met by using the lowest dose of the drug that is the safest and best for the procedure(s) being done. The time you need to relax or sleep is based on the service(s) your dentist asked for. Our dentist looked at the request and the information your dentist sent. We have approved part of the time to help you relax or sleep during your treatment for the service(s) that your dentist has asked for. Your dentist asked for more time than our rules say is medically necessary to safely complete the procedure(s) requested. We have also let your dentist know. Please talk with your dentist if you have questions about this.

This denial applies to this service(s):

- D9223 general anesthesia - each 15 minutes

We based this decision on:

- DentaQuest Clinical Criteria for General Anesthesia and IV Sedation

The information sent by your dentist does not tell us why you need this type of scan. This is used when you have facial abnormalities, implants or skull fractures. Your dentist and the information sent do not tell us that you have any of these. A CT scan is not medically necessary. We have also told your dentist. Please talk to your dentist.

This denial applies to this service(s):

- D0383 CT scan

We based this decision on:

- DentaQuest Clinical Criteria for Radiographic Services

The information your dentist sends must tell us why the type of extraction is necessary to pull out your tooth. We reviewed the information your dentist sent. The information does not support the type of extraction your dentist asked for. This way of pulling out your tooth is not medically necessary. We have also told your dentist. Please talk to your dentist about your treatment choices.

This denial applies to this service(s):

- D7230 extraction of impacted tooth with some bone [REDACTED]

We based this decision on:

- DentaQuest Clinical Criteria for Surgical Extraction
- D7230 extraction of impacted tooth with some bone [REDACTED]

We based this decision on:

- DentaQuest Clinical Criteria for Surgical Extraction

...

Sincerely,

Jennifer R. Burke, DDS ["Dr. Burke"]

Respondent's Composite Exhibit 1, pages 26-30. (Emphasis added).

4. On January 17, 2023, Petitioner requested a plan appeal. *Id.* at 37-39. On January 23, 2023, DentaQuest issued an NPAR *upholding* the denial of Dental services. *Id.* at 46-47. The NPAR states the following, in pertinent part:

On 01/23/2023 after consideration of the information you provided to DentaQuest in support of your plan appeal, **DentaQuest hereby DENIES your plan appeal.**

We made this decision based on all the information we got during the appeal process. This is a summary of our investigation and our decision about your appeal:

Our Dentist looked at your request to remove [REDACTED]. We found no sign of infection. Your dentist did not tell us you are in pain that is more than normal eruption pain. Your teeth are in a position that will let them break through the gum on their own. The associated sedation services D9223 are denied. D0383 the cone beam x-ray is also denied. The services are not medically necessary.

Respondent's Composite Exhibit 1, pages 46-47. (Emphasis added).

5. On January 23, 2023, DentaQuest issued an Authorization Determination (signed by F. Manteiga, DMD) to Petitioner's Dental provider ([REDACTED]) explaining the denial of Dental services. *Id.* at 51-53. The Authorization Determination states the following, in pertinent part:

[D7230] Determination Reason: Our Dental Consultant has reviewed the appeal and the initial decision is upheld. The service requested is denied. Additional documentation was received, but it does not support the need for this service. | **Per Dental Director review, the x-rays do not support the code requested. A less severe extraction code would be considered.** Please review the ADA code you requested and resubmit with the appropriate ADA code.

...

[D0383] Determination Reason: Our Dental Consultant has reviewed the appeal and the initial decision is upheld. The service requested is denied. Additional documentation was received, but it does not support the need for this service. | **Per Dental Director review, service is denied. The information submitted fails to support the presence of cranio-facial anomalies, implants or skeletal fracture.**

...

[D9223] Determination Reason: **We have approved the amount of anesthesia that is normally needed to safely complete the services requested.** Based on Dental Director review, the additional time requested is not medically necessary. | Our Dental Consultant has reviewed the appeal and the initial decision is upheld. The service requested is denied. Additional documentation was received, but it does not support the need for this service.

Respondent's Composite Exhibit 1, pages 51-53.

6. On February 27, 2023, [REDACTED] requested a Fair Hearing on behalf of Petitioner regarding the denial of Dental services. On March 22, 2023, the undersigned Hearing Officer issued a Scheduling Order, to all parties of record, scheduling the Fair Hearing to be convened by telephone on April 11, 2023, at 1:00 p.m. EST. *Id.* at 2-14.

7. According to [REDACTED]'s testimony presented at the Fair Hearing, Petitioner asserts the referral of Petitioner's Dental provider as evidence of medical necessity. [REDACTED] is waiting for all four wisdom teeth extractions to be approved before visiting the Dental provider again. Occasionally, Petitioner [REDACTED].

8. According to Dr. Hudson's testimony presented at the Fair Hearing, The teeth at issue are Petitioner's [REDACTED]. Petitioner's Dental provider submitted a Dental narrative indicating the presence of pain, but the Dental narrative is not specific to each individual tooth. DentaQuest's position is that Petitioner's Dental pain will be alleviated from the removal of Petitioner's [REDACTED], which is approved along with the appropriate amount of sedation. There is no Dental code that Petitioner will qualify for if they want the [REDACTED] removed because the documentation does not support the request. DentaQuest will not approve all four (4) wisdom teeth to be extracted if only one tooth is causing pain, so it is important for Petitioner's Oral Surgeon to furnish a Dental narrative individualized to each of the four (4) wisdom teeth, separately.

9. The internal criteria that DentaQuest used to make its decision appears in Section 18.09 of the DentaQuest Criteria for General Anesthesia and Intravenous (IV) Sedation, which provides as follows, in pertinent part:

18.09 Criteria for General Anesthesia and Intravenous (IV) Sedation

Documentation needed for review of procedure:

- Treatment plan (authorized if necessary).
- Narrative describing medical necessity for general anesthesia or IV sedation.
- Treatment rendered under emergency conditions, when review is not possible, will still require submission of treatment plan and narrative of medical necessity with the claim for review for payment.

Criteria

Requests for general anesthesia or IV sedation will be authorized (for procedures covered by health plan) if any of the following criteria are met:

Extensive or complex oral surgical procedures such as:

- Impacted wisdom teeth.
- Surgical root recovery from maxillary antrum.
- Surgical exposure of impacted or unerupted cuspids.
- Radical excision of lesions in excess of 1.25 cm.

And/or one of the following medical conditions:

- Medical condition(s) which require monitoring (e.g. cardiac problems, severe hypertension).
- Underlying hazardous medical condition, which could include a physical, medical, developmental or behavioral issue (such as cerebral palsy, epilepsy, mental retardation,
- Down's syndrome, or situational anxiety that has failed to respond to the lesser methods to prevent or reduce anxiety which would render patient non-compliant
- Documented failed sedation or a condition where severe periapical infection would render local anesthesia ineffective.
- Patients 3 years old and younger with extensive procedures to be performed.

Respondent's Composite Exhibit 1, page 58.

10. The internal criteria that DentaQuest used to make its decision appears in Section 18.01 of the DentaQuest Criteria for Dental Extractions, which provides as follows, in pertinent part:

18.01 Criteria for Dental Extractions

Criteria

The prophylactic removal of asymptomatic teeth (i.e. third molars) or teeth exhibiting no overt clinical pathology (except for orthodontics) is not a covered service. DentaQuest will not reimburse for any surgical extraction of third molars which are asymptomatic or do not exhibit any evidence of pathology or which were extracted for prophylactic reasons only.

...

3. Documentation of medical necessity for oral surgery – evidence of diagnosed pathology or demonstrable need (including ortho), rather than anticipated future pathology.

- a. Pathology

- i. Provider must submit narrative and x-rays or photos describing pathology
 - ii. Each tooth must show pathology
 - iii. Symptomology or impactions without pathology may not be enough
 - b. Demonstrable need
 - i. Narrative describing need
 - ii. Supporting documentation (e.g. x-rays, photos, hospital admissions, etc.)
 - c. Extractions in conjunction with approved orthodontic treatment
 - i. Provider must submit request for extractions from orthodontist
 - ii. Needs to be approved orthodontic case
 - iii. To expedite process, provider may also want to submit orthodontic approval
- 4. General approval v. Denial Guidelines
 - a. Probable Approval
 - i. **Pathology =**
 1. **Non-restorable Decay**
 2. **Tooth erupting on an angle and impinging on 2nd molars**
 3. **Recurrent Pericoronitis**
 4. **Dentigerous Cyst or other growth**
 5. **Internal or External Root Resorption**
 6. **3rd molar has over-erupted due to lack of opposing tooth contact**
 - ii. **Demonstrable Need =**
 1. In conjunction with approved orthodontics where orthodontist request the 3rd molars be removed to guarantee the success of the orthodontic case (provide referral from ortho and prior auth approval of ortho if possible)
 2. **Pain with no pathology – On a per tooth basis, provider must furnish a narrative that describes pain that is more than normal eruption pain – for example: a description of duration, intensity, medications, or other factors that are more than normal eruption pain – the description of such factors is necessity demonstrate need**
 - b. Probable Denial
 - Impaction or Symptomology =
 1. Impaction with no other pathology

- 2. Pain or discomfort with unknown pathology
- **Other 3rd molars have pathology (if one, two, or three teeth show pathology, DQ will not automatically approve the extraction of the remaining non-pathologic teeth)**

Respondent's Composite Exhibit 1, page 55-57. (Emphasis added).

CONCLUSIONS OF LAW

11. The Agency's Office has jurisdiction over the subject matter of this proceeding and the parties pursuant to section 409.285(2) of the Florida Statutes ("Fla. Stat." or "F.S") (2022). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

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

13. 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.).

14. 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. 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.

1.1 Florida Medicaid Policies

This policy is intended for use by providers that render dental services to eligible Florida Medicaid recipients. It must be used in conjunction with Florida Medicaid's general policies (as defined in section 1.3) and any applicable service-specific and claim reimbursement policies with which providers must comply.

Note: All Florida Medicaid policies are promulgated in Rule Division 59G, Florida Administrative Code (F.A.C.). Coverage policies are available on the Agency for Health Care Administration's (AHCA) Web site at <http://ahca.myflorida.com/Medicaid/review/index.shtml>.

1.2 Statewide Medicaid Managed Care Plans

Florida Medicaid managed care plans must comply with the service coverage requirements outlined in this policy, unless otherwise specified in the AHCA contract with the Florida Medicaid managed care plan. The provision of services to recipients enrolled in a Florida Medicaid managed care plan must not be subject to more stringent service coverage limits than specified in Florida Medicaid policies.

...

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:

4.2.9 Surgical Procedures and Extractions

Florida Medicaid covers surgical procedures and extraction services for recipients under the age of 21 years.

Florida Medicaid covers emergency dental services for recipients under age 21 years and older to alleviate pain, infection, or both, and procedures essential to prepare the mouth for dentures.

...

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

15. 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.

16. The Florida Medicaid Definitions Policy (August 2017), incorporated by reference in Fla. Admin. Code R. 59G-1.010, provides 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 Florida Medicaid Definitions Policy defines “Medically Necessary” or “Medical Necessity” 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).

19. Petitioner requested the extraction of their four (4) wisdom teeth ([REDACTED]), as well as sedation and CT scan that accompanies the surgical procedure. See supra ¶ 2. Respondent approved the Dental extractions of [REDACTED], and the appropriate amount of sedation. See supra ¶ 2. In a NABD, Respondent denied Petitioner’s remaining request based on the submitted documentation and their internal Criteria for Dental Extractions. See supra ¶ 3.

Respondent explained that Petitioner's request was not medically necessary, as Petitioner's request was not "needed to protect life, prevent significant illness or disability, or alleviate severe pain" nor was it "individualized, specific, consistent with symptoms or diagnosis of illness or injury" and was "in excess of the patient's needs." *Id.* Respondent determined that the criteria for wisdom teeth were not met because the information does not support the type of extraction Petitioner's dentist asked for. *See supra* ¶ 3. Dr. Burke also denied the request for a CT scan because, "[t]he information sent by your dentist does not tell us why you need this type of scan. This is used when you have facial abnormalities, implants or skull fractures. Your dentist and the information sent do not tell us that you have any of these." *See supra* ¶ 3. Based on this assessment, Petitioner's Dental provider did not show Petitioner's remaining wisdom teeth need to be removed or that a CT scan is medically necessary. *See supra* ¶ 3-5.

20. As Petitioner bears the burden of proof, Petitioner must show by a preponderance of the evidence that Respondent's decision was incorrect. Here, Petitioner did not establish that the extractions of Petitioner's wisdom teeth ([REDACTED]) were not "in excess of the patient's needs." As shown by the record of Dr. Burke, Dr. Manteiga, and Dr. Hudson, there is no sign of infection or pathology, *supra* ¶ 9, that warrant extractions of these teeth. *See supra* ¶ 3-5, 8. Moreover, Petitioner is experiencing some Dental pain, but Respondent's Dental professionals attribute this pain to Petitioner's [REDACTED], which was approved by the Dental plan. *See supra* ¶ 8. Petitioner submitted a Dental narrative. *See supra* ¶ 2. However, Dr. Hudson assessed that the Dental narrative was not tooth specific; meaning that it indicates the presence of pain, but does not attribute the Dental pain to a specific tooth. *See supra* ¶ 8. The Dental narrative must be specific and individualized to each wisdom tooth in describing how each tooth

is causing pain beyond normal discomfort. *See supra* ¶ 2, 8-10. Thus, Petitioner failed to submit a sufficient Dental narrative fully attributing Petitioner's Dental pain to each wisdom tooth and describing in the Dental narrative pain that is more than normal expected eruption. *See supra* ¶ 8. Furthermore, Petitioner's authorized representative did not dispute Dr. Hudson's assessment of Petitioner's Dental condition or the Dental narrative. Petitioner's authorized representative merely expressed a desire to have all four wisdom teeth extracted at the same time. *See supra* ¶ 7. However, the prophylactic removal of asymptomatic teeth (i.e. third molars) or teeth exhibiting no overt clinical pathology (except for orthodontics) is not a covered service. *See supra* ¶ 10. Respondent will not reimburse for any surgical extraction of third molars which are asymptomatic or do not exhibit any evidence of pathology or which were extracted for prophylactic reasons only. *See supra* ¶ 10. Again, Petitioner's [REDACTED] is not a Dental professional, and as a result, is not qualified to give an assessment of Petitioner's Dental condition. Thus, Respondent's assessment of Petitioner's Dental condition was uncontested. The explanation from Petitioner's Dental provider as to why all four (4) wisdom teeth need to be extracted would have been vital in this case. However, Petitioner's Dental provider was not present to explain their Dental narrative and their recommendation.

21. The undersigned Hearing Officer considered the Dental narrative to be a recommendation and took it into consideration. However, the fact that a provider has recommended services does not, in itself, make such services medically necessary. *See supra* ¶ 18. In other words, just because the Dentist/Oral Surgeon requested and stated that the Petitioner needs their wisdom teeth extracted does not mean that said Dental services are automatically approved on their word alone. Thus, the Hearing Officer must weigh the

professional assessment of Petitioner's dental provider ([REDACTED]) against the professional assessment of Respondent's three (3) dental consultants (Dr. Hudson, Dr. Burke, and Dr. Manteiga). It is the Petitioner's burden to show that their Dentist made the correct assessment and Respondent's three (3) dental consultants' (Dr. Hudson, Dr. Burke, and Dr. Manteiga) that Petitioner's teeth do not need to be removed, is incorrect. However, here, the undersigned Hearing Officer found Dr. Hudson's testimony, *supra* ¶ 8, regarding Petitioner's dental condition and Dental needs to be credible and reliable.

22. Dr. Hudson's credible testimony at the Fair Hearing established that she is qualified in making medical necessity determinations regarding the extractions of wisdom teeth. *See supra* ¶ 8. Dr. Hudson's professional assessment is that the Petitioner's [REDACTED] do not need to be extracted at this time because the Petitioner's Dental pain is likely stemming from the [REDACTED] and would be alleviated by these extractions. The record indicates that Petitioner's request for Dental services is based on them experiencing Dental pain. *See supra* ¶ 2. There is evidence that Petitioner has not yet extracted the approved wisdom teeth, and Petitioner's Dental pain would be alleviated after receiving these Dental services as the Dental pain is not attributed to the remaining wisdom teeth at issue. *See supra* ¶ 8. As of right now, Petitioner is not experiencing more pain to be expected when new teeth are growing in for the remaining wisdom teeth based on Dr. Dorrego's assessment of the Dental x-rays. *See supra* ¶ 8. As such, Petitioner did not show that [REDACTED] request was "individualized, specific, [and] consistent with the symptoms or diagnosis of illness or injury" and not "in excess of the patient's needs." Further, regarding Petitioner's request for sedation, Petitioner did not provide any testimony or evidence on the record as to why this service would be medically necessary once the underlying

services are denied. Also, with respect to the CT scan, Petitioner did not present any testimony indicating that Petitioner has facial abnormalities, implants or skull fractures. Petitioner's [REDACTED] presented no testimony regarding the need for a CT scan and focused on the extractions of Petitioner's wisdom teeth. As a result, Respondent's medical necessity determination here went uncontested at the Fair Hearing. Although Petitioner may benefit from the extraction of all four wisdom teeth at once, there is insufficient evidence that all four wisdom teeth meet the clinical criteria for Dental extractions. As such, Petitioner did not demonstrate that the requested Dental services were medically necessary.

23. Upon consideration of the testimony provided, the documentation evidence submitted, and applicable policies, the undersigned Hearing Officer 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 Hearing Officer 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 is hereby **AFFIRMED**. Petitioner's appeal based on Respondent's denial of Dental services is hereby **DENIED**.

DONE and ORDERED this 17th day of May, 2023, in Tallahassee, Leon County, Florida.



Joseph Mabry

23-FH0411

2023.05.17

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JOSEPH MABRY, Hearing Officer

Agency for Health Care Administration

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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.

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