



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

FILED

Sep 13, 2023, 11:20 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH1290

Plan ID No.: [REDACTED]

vs.

DENTAQUEST OF FLORIDA, INC.,

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on July 26, 2023, at 1:00 p.m. Eastern Standard Time ("EST").

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Mayckol Chamarro
Grievance 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 decision to deny Petitioner's request for dental services was incorrect.

PRELIMINARY STATEMENT

All parties appeared telephonically. [REDACTED] (“[REDACTED]”), Petitioner’s Authorized Representative and [REDACTED], appeared on behalf of the Petitioner.

Mayckol Chamarro, Grievance and Appeals Specialist for DentaQuest of Florida (“DentaQuest”), appeared on behalf of Respondent. Dr. Frank Manteiga (“Dr. Manteiga”), Dental Consultant for DentaQuest, attended as a witness for Respondent.

Suzanne Chillari, Medicaid Health Care Program Analyst for the Agency for Health Care Administration (“Agency” or “AHCA”), appeared as an observer.

Petitioner did not introduce any exhibits at the hearing. Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a forty-two (42)-page evidence packet. The evidence packet appears in the Office of Fair Hearings document management system as file title “23-FH1290 Evidence Packet.pdf.” Absent an objection from the Petitioner, the undersigned admitted the forty-two (42)-page evidence packet into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”).

FINDINGS OF FACT

1. Petitioner is an enrolled member of DentaQuest. Denta Quest is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida. See p. 9 RCE 1.
2. Petitioner is [REDACTED]. *Id.* at 19.
3. Petitioner requested orthodontic treatment, specifically code D7240, removal of impacted tooth, for teeth [REDACTED]; and code D9223 general anesthesia. In a Notice of Adverse Benefit Determination (“NABD”), dated April 25, 2023, Respondent denied Petitioner’s request. The NABD explained the basis of the denial as follows:

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.
- ~~Must meet accepted medical standards and not be experimental or investigational.~~

...

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 your safety and well-being; 2) reduce your physical discomfort and pain; 3) control your fear; 4) change your actions or movement so the dentist can safely complete the procedure; and 5) return you to a state after the treatment 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 treatment done. The time you need to relax or sleep is based on the treatment your dentist asked for. Our dentist has approved part of the time to help you relax or sleep during your treatment. Your dentist asked for more time than our rules say is medically necessary to safely complete the treatment. 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 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. The pain must be more than you may have normally as your tooth is breaking through the gums. Please follow up with your dentist.

This denial applies to this service(s):

- D7240 extraction of impacted tooth covered by bone [REDACTED]

We based this decision on:

- DentaQuest Clinical Criteria for Surgical Extraction
- D7240 extraction of impacted tooth covered by bone [REDACTED]

We based this decision on:

- DentaQuest Clinical Criteria for Surgical Extraction
- D7240 extraction of impacted tooth covered by bone [REDACTED]

We based this decision on:

- DentaQuest Clinical Criteria for Surgical Extraction

Id. at 12-13.

4. Petitioner requested a plan appeal and received a Notice of Plan Appeal Resolution (“NPAR”), dated May 4, 2023, upholding the denial. The NPAR explained as follows:

On 05/04/2023 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 teeth [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. The services are not medically necessary.

Id. at 29.

5. On May 26, 2023, Petitioner requested a Fair Hearing regarding the denial of dental services. On June 29, 2023, the undersigned issued an Order Scheduling Fair Hearing and Prehearing Instructions, setting the hearing for July 26, 2023, p.m. EST.

6. [REDACTED], [REDACTED] of Petitioner, testified as follows:

a. [REDACTED] wants the extractions for [REDACTED] because [REDACTED] began complaining of pain in the [REDACTED].

b. [REDACTED] is concerned that if [REDACTED] does not get the extractions, there will be [REDACTED] [REDACTED].

7. Dr. Manteiga, dental consultant and witness for DentaQuest, testified as follows:

- a. To qualify for the requested procedure, Petitioner must have evidence of pathology such as pathology related pain, aberrant position or infection.
- b. Based on the clinical documentation provided, Dr. Manteiga asserted that Petitioner experiences pain with no pathology. On a per tooth basis, the dental 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.
- c. Referring to Petitioner’s dental x-ray, Dr. Manteiga testified that Petitioner’s wisdom teeth have no pathology present, Petitioner’s wisdom teeth are erupting in a normal pattern, Petitioner’s wisdom teeth are not coming in at a severe angle, and Petitioner’s wisdom teeth are not aberrant.
- d. Dentaquest lacks sufficient documentation from Petitioner’s provider that would qualify Petitioner for the extraction procedure.

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 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 requests for dental services are 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:

1.0 Introduction

Florida Medical Dental services provide for the study, screening, assessment, diagnosis, prevention, and treatment of diseases, disorders, and conditions of the oral cavity.

...

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

4.2.9 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.

12. The Dental Policy also establishes dental services specifically not covered under Florida Medicaid:

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

13. 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.

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

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.

Definitions Policy at page 7.

15. In the instant case, Petitioner requested authorization of Code D7240 for the extraction of teeth [REDACTED] as well as accompanying general anesthesia. Respondent’s basis for denial is 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.” See ¶ 3. 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 at issue were not “in excess of the patient’s

needs.” As shown by the record, there is no sign of infection or pathology that warrant extractions of [REDACTED]. See ¶ 3-47 . Moreover, Petitioner’s teeth at issue are erupting in a normal eruption pattern with some eruption discomfort according to [REDACTED]’s testimony. See ¶ 7. However, the x-rays and documentation show no signs of pathology. See ¶ 8. Petitioner’s provider did not submit a dental narrative that was tooth specific, did not describe dental pain beyond normal expected pain from eruption, and did not state that there are any signs of infection. See ¶ 8. 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 eruption pain. See ¶8. As Dr. Mantega testified, there was no documentation from Petitioner’s provider indicative of infection or significant pain that would warrant tooth extractions. See ¶7. Petitioner did not offer any evidence with respect to Petitioner suffering from significant pain or related infection. See ¶6. Although Petitioner’s dental provider recommended the dental extractions at issue, “ [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 ¶ 14.

19. Upon consideration of the testimony, Respondent’s Composite Exhibit 1, and the applicable laws and policies, the undersigned Hearing Officer concludes that the record does not reflect 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 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 is **AFFIRMED**. Petitioner's appeal based on Respondent's denial is **DENIED**.

DONE and ORDERED this 13th day of September, 2023, in Tallahassee, Leon County, Florida.



LYNNE RINGERS
23-FH1290
2023.09.13
~~08:27:18 04'00'~~

LYNNE RINGERS, Hearing Officer
Agency for Health Care Administration
Office of Fair Hearings
2727 Mahan Drive, Mail Stop # 11
Tallahassee, FL 32308-5407

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:



DentaQuest of Florida, Inc.
CGATeam3@dentaquest.com

AHCA Medicaid Hearing Unit
MedicaidHearingUnit@ahca.myflorida.com