



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

**FILED**

Sep 26, 2023, 9:55 am

OFFICE OF FAIR HEARINGS

[REDACTED],

**PETITIONER,**

**AHCA Case No.: 23-FH1747**

**Plan ID No.: [REDACTED]**

**vs.**

**DENTAQUEST OF FLORIDA, INC.,**

**RESPONDENT.**

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Medicaid Fair Hearing on the above-styled case on September 11, 2023, at 9:00 a.m., Eastern Standard Time ("EST").

**APPEARANCES**

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Mayckol Chamoro  
Complaints and Grievance 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 [REDACTED]

[REDACTED] was incorrect.

**PRELIMINARY STATEMENT**

All parties appeared telephonically. [REDACTED] Petitioner's Authorized Representative and [REDACTED] represented Petitioner at the Fair Hearing. Petitioner's [REDACTED] appeared at the Fair Hearing as a witness for Petitioner but did not testify.

Mayckol Chamoro, Complaints and Grievance Specialist for DentaQuest of Florida, Inc. ("DentaQuest"), appeared as a representative for Respondent. Dr. Linda Johnson ("Dr. Johnson"), Dental Consultant for DentaQuest, appeared as a witness for Respondent.

Linda Latson, Registered Specialist 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 fifty (50)-page evidence packet. The evidence packet appears in the Office of Fair Hearings' case management system as "23-FH1747 SFH Evidence Packet.pdf." Absent an objection from Petitioner, the fifty (50)-page evidence packet was admitted into evidence as Respondent's Composite Exhibit 1.

### **FINDINGS OF FACT**

1. Petitioner is an enrolled member of DentaQuest's Florida Statewide Medicaid Dental Health Program. See RCE 1 at 10<sup>1</sup>. DentaQuest is a Managed Care Organization contracted by AHCA to provide services to eligible Medicaid recipients in Florida.

2. Petitioner is [REDACTED]. *Id.* Petitioner's dental services provider, [REDACTED] submitted an ADA Dental Claim form on behalf of

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<sup>1</sup> Page numbers are referenced as they are labeled in RCE 1.

Petitioner requesting preauthorization of dental services. *Id.* at 10. Petitioner’s Provider requested the following dental services: D8080 – comprehensive orthodontic treatment of the

[REDACTED]

[REDACTED] *Id.* at 10, 19 – 21.

3. Petitioner’s Provider also submitted a DentaQuest Orthodontic Criteria Index Form (“Orthodontic Criteria Index”). *Id.* at 23. Petitioner’s Provider checked an “X” under the “Yes” column on the Orthodontic Criteria Index by one condition considered to be an automatically-qualifying condition: OJ, [REDACTED] – measured from the [REDACTED]. *Id.*

4. Petitioner’s Provider submitted photographs and dental x-rays of Petitioner’s face and mouth. *Id.* at 22, 24 – 25.

5. On or about July 5, 2023, DentaQuest’s dental consultant, Dr. F. Manteiga, D.M.D (“Dr. Manteiga”), reviewed Petitioner’s [REDACTED] and all available records, which included all the submitted dental photographs and radiographs. *Id.* at 28 – 34. Dr. Manteiga denied the requested comprehensive orthodontic treatment of the adolescent dentition ([REDACTED] – braces) because the handicapping malocclusion is not demonstrated and because the documentation received did not meet the DentaQuest clinical criteria for comprehensive orthodontic treatment of the adolescent detention. *Id.* Dr. Manteiga denied the requested periodic orthodontic treatment visits ([REDACTED] monthly visits) because the handicapping malocclusion is not demonstrated and because the documentation received did not meet the DentaQuest clinical criteria for periodic orthodontic treatment visits. *Id.* Dr. Manteiga denied the requested orthodontic retention services ([REDACTED] retainers) because this service is included

as part of the comprehensive ortho treatment and because the documentation received did not meet the DentaQuest clinical criteria for orthodontic retention (removal of appliances). *Id.*

6. On June 25, 2023, DentaQuest issued a Notice of Adverse Benefit Determination (“NABD”) denying Petitioner’s request for dental services. *Id.* at 13 – 18. DentaQuest stated that Petitioner’s requested dental services were denied because they were not medically necessary.

*Id.* The NABD stated as follows, in pertinent part:

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.
- Must be able to be 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.
- Must be furnished in a manner not primarily intended for convenience of the recipient, caretaker, or provider.

*(The convenience factor is not applied to the determination of the medically necessary level of private duty nursing (PDN) for children under the age of 21.)*

...

The facts that we used to make our decision are:

Our dentist looked at the information sent by your dentist. You did not meet the criteria needed to approve braces. The information sent shows a lack of medical necessity or a handicapping malocclusion. The criteria measure how your teeth are different from normal alignment. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This denial applies to this service(s):

- [REDACTED] braces  
We based this decision on:
  - DentaQuest Clinical Criteria for Comprehensive Orthodontics
- [REDACTED] monthly visit  
We based this decision on:
  - DentaQuest Clinical Criteria for Other Orthodontic Services

We cannot approve this service in addition to braces. Your dentist does not have to ask for this service separately. We have also told your dentist. Please speak to your dentist.

This denial applies to this service(s):

- [REDACTED] braces  
We based this decision on:
  - DentaQuest Clinical Criteria for Comprehensive Orthodontics

...

*Id.* 13 – 14.

7. Petitioner appealed the denial of the requested dental services. *Id.* at 36. On July 5, 2023, DentaQuest issued a Notice of Plan Appeal Resolution (“NPAR”), upholding the denial of the dental services. *Id.* at 36 – 40. The NPAR explained as follows, in pertinent part:

On 06/29/2023 we received your timely plan appeal request regarding DentaQuest’s Notice of Adverse Benefit Determination dated 06/23/2023, NABD Number ACME-16-000156, for authorization number [REDACTED] DENYING the SERVICE provided to [Petitioner].

On 07/05/2023 after consideration of the information you provided to DentaQuest in support of your plan appeal, DentaQuest hereby DENIES your plan appeal.

*Id.* at 36.

8. DentaQuest relied upon their internal Clinical Criteria for Orthodontics in their decision to deny dental services. *Id.* at 42 – 49. The Clinical Criteria for Orthodontics states as follows:

### **18.11 Clinical Criteria for Orthodontics**

Florida Medicaid requires that for any orthodontic case to be determined as medically necessary the case must demonstrate a “handicapping malocclusion”. The state defines “handicapping malocclusion” as “a condition that results in a disability or impairment to the recipient’s physical development.” DentaQuest has set the criteria in the Orthodontic Criteria Index Form included below. **Please note, that if a provider does not check any criteria, DentaQuest will deny the case.** The Pre-orthodontic visit (code D8660) is only covered on denied prior authorization requests for comprehensive orthodontic care. The pre-orthodontic visit includes diagnostic casts, photographs, radiographs (panoramic and cephalometric), a [sic] Orthodontic form, a ADA claim form, and a narrative including the diagnosis and treatment plan These services are not reimbursed separately.

Orthodontic services will not be covered for the following conditions:

- Treatment primarily for cosmetic purposes; or
- Split phase treatment, with exception of cleft palate cases
- Cases that do not meet one of the auto qualifiers in the orthodontic form.

### **Documentation**

Orthodontic treatment requires the following documentation to show medical necessity:

- Prior Authorization by DentaQuest
- Orthodontic Form
- Examination and records that show a narrative or rationale including diagnosis/prognosis/treatment plan
- (On a case by case basis).
- Appropriate radiographs and facial photographs - Lateral cephalometric radiograph, study models or
- OrthoCad equivalent.
- The participant must have good oral hygiene and have all dental work up to date. Both should be noted in narrative.

Appropriate photographic requirements include:

- Facial photographs (right and left profiles in addition to a straight-on facial view)
- Frontal view, in occlusion, straight-on view
- Frontal view, in occlusion, from a low angle
- Right buccal view, in occlusion

- Left buccal view, in occlusion
- Maxillary Occlusal view
- Mandibular Occlusal view

...

*Id.* at 42.

9. On July 14, 2023, [REDACTED] requested a Fair Hearing on behalf of Petitioner, based on DentaQuest’s denial of Petitioner’s request for dental services. The Office of Fair Hearings issued an Order Scheduling Fair Hearing by Telephone and Prehearing Instructions on August 11, 2023. The order set this matter for hearing September 11, 2023, at 9:00 a.m. EST, and all parties were duly notified.

10. [REDACTED] is Petitioner’s [REDACTED]. [REDACTED] testified that Petitioner needs the dental services because it is important. [REDACTED] testified that [REDACTED] was shown Petitioner’s x-rays and that Petitioner’s Provider recommended the dental services. See RCE 1 at 24 – 25. [REDACTED]

[REDACTED] testified that [REDACTED] other [REDACTED] has a few things the same and received braces a few years ago. [REDACTED] testified that the braces are medically necessary for Petitioner because it

[REDACTED]. [REDACTED] testified that Petitioner has [REDACTED]

[REDACTED]. [REDACTED] testified that Petitioner will be affected later on and wants to get it [dental services] done to shape Petitioner’s mouth before [REDACTED]

11. Dr. Johnson is a licensed Florida dentist and a Dental Consultant with DentaQuest. Referring to section 18.11 of DentaQuest’s Clinical Criteria for Orthodontics, Dr. Johnson noted for any orthodontic case to be determined as medically necessary the case must demonstrate a “handicapping malocclusion.” See RCE 1 at 43. The list of qualifiers for handicapping malocclusions is found on the Orthodontic Criteria index form, and Dr. Shelling selected the

overjet handicapping malocclusion. *Id.* at 23. Dr. Johnson testified that an incompetent lip means a patient is unable to close their lips without straining. Dr. Johnson reviewed Petitioner's dental x-rays, noting Petitioner's measurements show Petitioner does not qualify for the overjet handicapping malocclusion. Dr. Johnson testified that Petitioner did not meet any of the handicapping malocclusion criteria.

### **CONCLUSIONS OF LAW**

12. 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), Florida Statutes (2019). This order is the final administrative decision of AHCA under section 409.285(2)(a).

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

14. The burden of proof in this proceeding is governed by Fla. Admin. Code R. 59G-1.100(17)(g), which provides as follows:

The burden of proof is on the party asserting the affirmative of an issue, except as otherwise required by statute. The burden of proof is on the Agency or plan, whichever is applicable, when the issue presented is the suspension, reduction, or termination of a previously authorized service. The burden of proof is on the recipient or enrollee, when the issue presented is the denial or a limited authorization of a service. The party with the burden of proof shall establish its position to the satisfaction of the Hearing Officer by a preponderance of the evidence.

15. Because Petitioner requested a new service, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to the 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.)

16. Petitioner's request for dental services is governed by the Florida Medicaid Dental Services Coverage Policy (August 2018) ("Dental Policy"), which is incorporated by reference in Fla. Admin. Code R. 59G- 4.060. The Dental Policy provides as follows:

**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.

...

**1.4.4 Handicapping Malocclusion**

A condition that results in a disability or impairment to the recipient's physical development.

...

**1.4.6 Medically Necessary/Medical Necessity**

As defined in Rule 59G-1.010, F.A.C.

...

**2.2 Who Can Receive**

Florida Medicaid recipients requiring medically necessary dental services. Some services may be subject to additional coverage criteria as specified in section 4.0.

If a service is limited to recipients under the age of 21 years, it is specified in section 4.0. Otherwise, the service is covered for recipients of all ages.

...

**4.1 General Criteria**

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

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

**4.2 Specific Criteria**

Florida Medicaid reimburses for the following services in accordance with the American Dental Association 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:

...

**4.2.4 Orthodontic Services**

Florida Medicaid covers orthodontic services for recipients under the age of 21 years with handicapping malocclusions as follows:

- Up to 24 units within a 36 month period, including the removal of the appliances and retainers at the end of treatment
- One replacement retainer(s) per arch, per lifetime

...

### **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.

...

### **5.1 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 Specific 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 screening
- Individual periapical radiograph(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

17. Petitioner is under age 21, and therefore eligible for EPSDT services. However, a state may place appropriate limits on a service based on such criteria as medical necessity. See 42 C.F.R. §§ 440.230(a), (b), (d). Section 409.905(2), Florida Statutes, limits EPSDT services with a medical necessity standard:

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 all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems and conditions, including personal

care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

18. As provided in 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.

19. Based on Petitioner's age, both the Dental Policy and the EPSDT requirements necessitate review of Respondent's denial of Petitioner's request for orthodontic services according to "medical necessity." Respondent, through the issuance of the NPAR, determined that orthodontic services are not "medically necessary" for Petitioner. Section 2.83 of the Florida Medicaid Definitions Policy (August 2017), which is 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 severe 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.

20. Petitioner is under age 21, *see supra* ¶ 2, and therefore eligible for EPSDT services. *See supra* ¶ 17. Fla. Stat. § 409.905(2) limits EPSDT services with a medical necessity standard, and requires that the Agency “pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems and conditions . . . .” *Id.* Pursuant to 42 U.S.C. § 1396d(r)(3), EPSDT services includes medically necessary dental services and “at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.” *See supra* ¶ 18.

21. Section 2.2 of the Dental Policy reflects that “Florida Medicaid recipients requiring medically necessary dental services” may receive services. *See supra* ¶ 16. Pursuant to section 2.83 of the Definitions Policy, the five (5) conditions of medical necessity must be met in order for “medical or allied care, goods, or services furnished or ordered” to be determined medically necessary. *See supra* ¶ 21. Accordingly, all five (5) of the conditions must be met in order for DentaQuest to approve the requested dental services.

22. As established on the record, Respondent denied Petitioner's request for comprehensive

[REDACTED]

[REDACTED]

¶ 5 – 7. Specifically, DentaQuest determined the services failed the following two medical necessity criteria: “must be needed to protect life, prevent significant illness or disability, or alleviate severe pain;” and “must be individualized, specific, consistent with symptoms or diagnosis or illness or injury and not be in excess of the patient's need.” See supra ¶ 6.

23. [REDACTED] argued that the requested dental services should be approved because Petitioner's Provider recommended the treatment. See supra ¶ 10. The record also reflects that Petitioner's Provider submitted an ADA Dental Claim form on behalf of Petitioner requesting the preauthorization of dental services. See supra ¶ 2. However, “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.” See supra ¶ 19. Further, the ADA Dental Claim form submitted by Petitioner's Provider, *prima facie*, does not make the requested dental service a covered service.

24. As Petitioner bears the burden of proof, Petitioner must show by a preponderance of the evidence that Respondent's decision was incorrect. See supra ¶ 15. As established on the record, Petitioner did not meet the criteria for a handicapping malocclusion OJ based on the Petitioner's provider's Criteria Index form as well as the radiographs and photographs submitted. See supra ¶ 5 – 7, 11. As such, the greater weight of evidence shows that the requested orthodontic services are not individualized, specific, consistent with symptoms or diagnosis or illness of injury and are in excess of the patient's need. Therefore, Petitioner did not demonstrate that the requested

orthodontic services are medically necessary. Looking at all the evidence relevant to the particular needs of Petitioner, Petitioner did not demonstrate that the requested services are necessary to correct or ameliorate a defect or a physical and mental illness or condition.

25. Accordingly, Petitioner did not prove by a preponderance of the evidence that Respondent's denial of comprehensive orthodontic treatment [REDACTED] with periodic orthodontic visits [REDACTED] was incorrect.

26. The testimony and evidence presented in this case reflects that Respondent's denial of dental services was warranted under the circumstances of this case, as Petitioner failed to demonstrate the medical necessity of the requested services. [REDACTED] believes that Petitioner needs braces to prevent dental issues in the future. *See supra* ¶ 10. However, Petitioner's Provider submitted the DentaQuest Orthodontic Criteria Index Form wherein [REDACTED]

[REDACTED] *See supra* ¶ 3. Dr. Johnson testified that based upon the review of the documentation, photos and x-rays submitted by Petitioner's Provider, there are no auto qualifiers that could be checked off for Petitioner. *See supra* ¶ 11.

27. In light of both parties' testimony, Respondent's Composite Exhibit 1, and the applicable laws and policies, the undersigned Hearing Officer finds that Petitioner failed to establish that the requested dental services are medically necessary. Looking at all the evidence relevant to the particular needs of Petitioner, Petitioner did not demonstrate that the requested services are necessary to correct or ameliorate a defect or a physical and mental illness or condition, nor are they necessary to provide "relief of pain and infections, restoration of teeth, and maintenance of dental health". Accordingly, the undersigned Hearing Officer concludes that Petitioner failed to

prove by a preponderance of the evidence that Respondent's denial of dental services was incorrect.

**DECISION**

Respondent's denial of Petitioner's request for dental services is **AFFIRMED**. Petitioner's appeal based on Respondent's denial is hereby **DENIED**.

**DONE and ORDERED** this 26th day of September 2023, in Tallahassee, Leon County, Florida.



Kameisha Presley  
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**KAMEISHA PRESLEY, 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:**



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