



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

**FILED**

Apr 10, 2024, 12:00 pm

[REDACTED],

PETITIONER,

OFFICE OF FAIR HEARINGS

AHCA Case No.: 24-FH0042

Plan ID No.: [REDACTED]

vs.

MANAGED CARE OF NORTH AMERICA, INC.,

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Medicaid Fair Hearing on the above-styled case on February 26, 2024, at 9:45 a.m., and on April 3, 2024, at 1:00 p.m., Eastern Standard Time (“EST”).

**APPEARANCES**

For the Petitioner:

[REDACTED].

Petitioner’s Authorized Representative

For the Respondent:

Michelle Gonzlez  
Grievances & Appeals Director  
Managed Care of North America, 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]  
[REDACTED]) was incorrect.

**PRELIMINARY STATEMENT**

All parties appeared telephonically. [REDACTED]. (“[REDACTED]”), Petitioner’s Authorized Representative, represented Petitioner at the Fair Hearing dated April 3, 2024. [REDACTED], Petitioner’s [REDACTED], and [REDACTED], Petitioner’s [REDACTED], appeared at the Fair Hearing dated April 3, 2024, as witnesses for Petitioner.

Michelle Gonzlez, Grievances & Appeals Director for Managed Care of North America, Inc. (“MCNA Dental”), appeared at both Fair Hearings as a representative for Respondent and offered testimony. Dr. Diane Piper (“Dr. Piper”), Interim Dental Director for MCNA Dental, appeared at both Fair Hearings as a witness for Respondent and offered testimony. Kimberly Williams, Grievances & Appeals Supervisor for MCNA Dental, appeared at both Fair Hearings as a witness for Respondent but did not offer any testimony. Juliette Grave De Peralta, Grievances & Appeals Administrator for MCNA Dental, appeared at the Fair Hearing dated February 26, 2024, as a witness for Respondent but did not offer any testimony. Donna Beno, Associate General Counsel for MCNA Dental, appeared at the Fair Hearing dated April 3, 2024, as a witness for Respondent but did not offer any testimony.

Lee Ann Williams, Medical Healthcare Program Analyst and Fair Hearing Liaison for the Agency for Health Care Administration (“Agency” or “AHCA”), appeared at the Fair Hearing dated February 26, 2024, as an observer. Diana Hearod, Medical Healthcare Program Analyst and Fair Hearing Liaison for AHCA, appeared at the Fair Hearing dated April 3, 2024 as an observer.

Prior to the Fair Hearing, Petitioner sent to the Office of Fair Hearings and Respondent three (3) faxes totaling forty (40) pages. The faxes appears in the Office of Fair Hearings’ document management system as “24-FH0042 Faxed Supporting Documents.pdf”, “24-FH0042 Faxed Supporting Documents(2).pdf”, and “24-FH0042 Faxed Supporting Documents(3).pdf.”

Absent an objection from the Respondent, the undersigned admitted the three (3) faxes totaling forty (40) pages into evidence as Petitioner’s Composite Exhibit 1 (“PCE 1”).

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a forty-nine (49)-page evidence packet. The evidence packet appears in the Office of Fair Hearings’ case management system as “SFH Packet – [Petitioner’s Surname] (2) 1.pdf.” Absent an objection from Petitioner, the forty-nine (49)-page evidence packet was admitted into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”).

**FINDINGS OF FACT**

1. Petitioner is an enrolled member of MCNA Dental. See RCE 1 at 10. DentaQuest is a Managed Care Organization contracted by AHCA to provide services to eligible Medicaid recipients in Florida.

2. At the time of the hearing, Petitioner is [REDACTED]. *Id.* at 6.

3. Petitioner requested the following dental services: [REDACTED]  
[REDACTED]  
[REDACTED]

(hereinafter referred to as “dental services”). Respondent denied Petitioner’s request in the Notice of Adverse Benefit Determination (“NABD”) dated December 11, 2023. *Id.* at 4 – 8. 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.
- 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:

The dental service(s) that you or your dentist asked for are not approved because the Clinical Reviewer has determined that the requested service(s) will not correct or improve your condition. Your condition does not meet MCNA's Medical Necessity [1] criteria as stated in MCNA's Utilization Review Criteria and Guidelines. The information we received from your requesting provider does not show that:

#### Medical Necessity [1]

- Face growth and development have been completed. Generally, this occurs around age 16 for girls and age 18 for boys
- Due to the missing tooth next to your healthy teeth
- When glued in teeth cannot be placed, fake teeth in the bone may be the only solution
- The patient is restored to a normal side view, chewing, comfort, looks, speech, and health
- It saves natural bone and stops the bone loss
- As there is good general and oral health: there is healthy gum tissue that is free of gum disease and there is enough bone to anchor the implant.
- This may not be advisable for patient's whose jawbones have not stopped growing, you are expecting a child, because you smoke a lot, have heavy drinking or drug problems, you take certain medicines; such as steroids, you severely grind or clench your teeth, you have received high-dose radiation of the head or neck and are sick a lot or have problems in the body including; diabetes that is not controlled, there is a disease of some attaching tissue, you have blood clotting problems, and there is a lot of cell protection missing.
- The procedure is individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the member's needs

#### Medical Necessity [2]

- A cap that is attached to a screw or that your dentist attaches to a screw before putting it in your mouth
- Your dentist will decide if this type of screw and cap is right for you by checking the

- health of your jaw bone, gums, and mouth
- If your dentist thinks this is right for you, he/she will look at health conditions you may have or have had in the past, how your jaw moves and how your teeth fit together, look inside your mouth, take a mold of your mouth, and take x-rays of your mouth
- [Your] dentist needs to choose the best way to keep a cap in your mouth and will need to look at your gum health, how easily the cap can be removed if needed, how much space you have in your mouth, and where the cap needs to be placed
- The larger the cap is the easier it will be to keep in place. Sometimes if the cap is not put in right it can cause your gums to become red and swollen. It can also lead to bone loss in your mouth
- Since this type of cap is connected directly to your jaw bone it is important that it be put in correctly. If the cap is not put in correctly and you bite down too hard it can cause the cap to fall out or become loose
- The procedure is individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and is not being done only for cosmetic reasons

...

RCE 1 at 5 – 6.

4. Petitioner appealed the denial of the requested dental services. *Id.* at 33. On December 22, 2023, MCNA Dental issued a Notice of Plan Appeal Resolution (“NPAR”), upholding the denial of the dental services. *Id.* at 33 – 39. The NPAR explained as follows, in pertinent part:

On December 21, 2023, we received your timely plan appeal request regarding MCNA Dental’s Notice of Adverse Benefit Determination dated December 11, 2023, NABD Number [REDACTED], denying the following services: D6010 Surgical Placement of Implant Body: [REDACTED]  
[REDACTED]  
[REDACTED] provided to [Petitioner].

On December 21, 2023, after consideration of the information you provided to MCNA Dental in support of your plan appeal, MCNA Dental hereby denies your plan appeal. MCNA has denied your appeal due to the Dental Director, who is a licensed General Dentist determined that the tooth above appears to have started to supra-erect so the tooth may have been missing for some time. An implant is not a covered benefit under the member’s plan and at this point, no additional information has been submitted for the medical necessity other than to replace a tooth that is missing in the posterior of the mouth. The denial for this treatment is upheld until further information is submitted which may change this decision.

...

*Id.* at 33.

5. On January 3, 2024, [REDACTED] requested a Fair Hearing on behalf of Petitioner, based on MCNA Dental'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 January 23, 2024, setting the hearing for February 26, 2024, at 9:30 a.m. Petitioner failed to attend the scheduled hearing and on February 26, 2024, the Office of Fair Hearings issued an order to Show Cause. On March 15, 2024, the undersigned issued a Second Order Scheduling Fair Hearing by Telephone and Prehearing Instructions setting the hearing for April 3, 2024, at 1:00 p.m.

6. [REDACTED] testified to the following:

- a. In [REDACTED], Petitioner received a [REDACTED]. [REDACTED]  
[REDACTED].
- b. Petitioner was informed in [REDACTED] that MCNA Dental would not pay for [REDACTED].  
[REDACTED].

7. Ms. Gonzalez testified to the following:

- a. Respondent upheld the initial determination because the implant is not a covered benefit under Petitioner's plan.
- b. Respondent did not receive any additional information regarding medical necessity other than replacing the tooth that is missing in the posterior of Petitioner's mouth.
- c. The requested dental services did not meet the definition of medical necessity.
- d. The provider listed several treatment options that are covered.

- e. [REDACTED] has already super erupted (it is impinging on the space and touching on the gums where [REDACTED] would be) and has a potential need for treatment. The replacement of [REDACTED] is unwarranted.

8. Dr. Piper testified to the following:

- a. The requested dental services for [REDACTED] are not a covered benefit under Petitioner's plan.
- b. Respondent administers the plan under the limitations placed on the plan.
- c. Respondent did not receive any documentation supporting an exception to the plan.
- d. Clinical notes submitted by Petitioner state Petitioner could be left in first molar occlusion, meaning [REDACTED] could be extracted. See PCE 1 at 3. However, Petitioner's parents wanted to keep [REDACTED] and proceed with treatment. *Id.*
- e. According to medical necessity, the requested service 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. See RCE 1 at 49. Also, the requested service must be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider. *Id.* Petitioner has other options which do meet either of these two criteria. Petitioner has the option for no treatment, the extraction of [REDACTED], and other additional covered codes. There are equally effective and conservative or less costly treatment options available that are covered under Petitioner's plan.
- f. Dr. Piper agrees with the treatment plan that said to extract [REDACTED].

- g. Petitioner's [REDACTED], which is opposing to the tooth in question ([REDACTED]), is now hitting into the gum tissue below. There should be no further shifting of [REDACTED].

### CONCLUSIONS OF LAW

9. 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).

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

11. 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.

12. 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.)

13. 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

14. 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). 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.

15. 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.

16. Based on Petitioner's age, both the Dental Policy and the EPSDT requirements necessitate review of Respondent's denial of Petitioner's request for dental services according to "medical necessity." Respondent, through the issuance of the NABD and NPAR, determined that orthodontic services are not "medically necessary" for Petitioner. See supra ¶ 3, 4. 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.

RCE 1 at 49.

17. Petitioner is under age 21, *see supra* ¶ 2, and therefore eligible for EPSDT services. *See supra* ¶ 14. 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 . . . .” *See supra* ¶ 15.

18. Section 2.2 of the Dental Policy reflects that “Florida Medicaid recipients requiring medically necessary dental services” may receive services. *See supra* ¶ 13. 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* ¶ 16. Accordingly, all five (5) of the conditions must be met in order for MCNA Dental to approve the requested dental services.

19. Florida Medicaid reimburses for services that meet all of the following: are determined medically necessary; do not duplicate another service; and meet the criteria as specified in this policy. *See supra* ¶ 17.

20. As established on the record, Respondent denied Petitioner’s request for dental services because the services were not medically necessary. *See supra* ¶ 3 – 4. Specifically, MCNA Dental determined the services failed the following four medical necessity criteria: services must be needed to protect life, prevent significant illness or disability, or alleviate severe pain; must be

individualized, specific, consistent with symptoms or diagnosis or illness or injury and not be in excess of the patient's need; must meet accepted medical standards and not be experimental or investigational; and must be furnished in a manner not primarily intended for convenience of the recipient, caretaker, or provider. *See supra* ¶ 3.


21. As Petitioner bears the burden of proof, Petitioner must show by a preponderance of the evidence that Respondent's decision was incorrect. *See supra* ¶ 12. Here, Petitioner did not establish that the requested dental services for [REDACTED] were not "in excess of the patient's needs." *See supra* ¶ 3, 16. The record shows that Petitioner received a [REDACTED], that the [REDACTED] [REDACTED] *See* ¶ 6. However, Dr. Piper testified that the requested dental services are not covered benefits under the plan. *See* ¶ 8. Further, Dr. Piper established that there are equally effective and conservative or less costly treatment options available that are covered under Petitioner's plan. *See* ¶ 8. Dr. Piper provided convincing and persuasive testimony that Petitioner has the option for no treatment, the extraction of [REDACTED], and other additional covered codes. *See* ¶ 8. Accordingly, Petitioner did not demonstrate that the requested dental services were medically necessary.

22. In light of both parties' testimony, Petitioner's Composite Exhibit 1, 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 and a covered benefit. 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 10th day of April, 2024, in Tallahassee, Leon County, Florida.

 Kameisha Presley  
24-FH0042  
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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:**



**Managed Care of North America, Inc.**  
**gaflmfh@mcna.net**

**AHCA Medicaid Hearing Unit**  
**MedicaidHearingUnit@ahca.myflorida.com**