



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

FILED

Jul 02, 2024, 12:07 pm

OFFICE OF FAIR HEARINGS

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PETITIONER,

AHCA Case No.: 24-FH0793

Plan ID No.: ██████████

vs.

DENTAQUEST OF FLORIDA, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on April 18, 2024, at 10:01 a.m. Eastern Standard Time ("EST").

APPEARANCES

For the Petitioner:

██████████
Petitioner

For the Respondent:

Mayckol Chamorro
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 oral and maxillofacial surgery services was incorrect.

PRELIMINARY STATEMENT

All parties appeared telephonically. Petitioner appeared on ██████████ own behalf. ██████████

██████████ ("██████████"), Petitioner's ██████████, appeared as a witness for Petitioner.

Maykcol Chamarro (“Mr. Chamarro”), Grievance and Appeals Specialist for DentaQuest of Florida, Inc. (“DentaQuest”) appeared on behalf of Respondent. Dr. Linda Johnson (“Dr. Johnson”), Dental Consultant for DentaQuest appeared as a witness for Respondent.

Marielisa Amador, Medical 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 thirty-nine (39)-page evidence packet. The evidence packet appears in the Office of Fair Hearings document management system as “24-FH0793 Evidence Packet.pdf.” Absent an objection from the Petitioner, the undersigned admitted the thirty-nine (39)-page evidence packet into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”).

FINDINGS OF FACT

1. Petitioner is an enrolled member of DentaQuest. DentaQuest is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida. See page 18 of RCE 1.
2. Petitioner is [REDACTED]. *Id.*
3. Petitioner requested oral and maxillofacial surgery services, specifically 2 units of code D7230 (removal of impacted tooth-partially bony), and 4 units of code D7922 (placement of intra-socket dressing). In a Notice of Adverse Benefit Determination (“NABD”)¹, Respondent denied Petitioner’s request. *Id.* at 12-15. The NABD explained the basis of the denial as follows:

¹ This NABD appears to be misdated as March 6, 2024. The record shows the mailing date as January 31, 2024, as seen on the authorization determination on page 18 of RCE 1.

- ✓ 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:

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):

- 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

Your dentist asked for a service that is included when your tooth is pulled. Your dentist does not need to send a separate request for this service. We have also told your dentist. Please talk to your dentist.

This denial applies to this service(s):

- D7922 Placement of intra-socket dressing [REDACTED]
- D7922 Placement of intra-socket dressing [REDACTED]
- D7922 Placement of intra-socket dressing [REDACTED]
- D7922 Placement of intra-socket dressing [REDACTED]

Id. at 12-13.

4. Petitioner requested a plan appeal and received a Notice of Plan Appeal Resolution (“NPAR”) dated March 5, 2024, upholding the denial. *Id.* at 29-31. The NPAR explained as follows:

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 as your tooth is breaking through the gums. The services are not medically necessary. Placement of intra-socket dressing on Teeth [REDACTED] are also denied. Your dentist asked for a service that is included when your tooth is pulled. Your dentist does not need to send a separate request for this

Id. at 21.

7. [REDACTED] is Petitioner's [REDACTED]. [REDACTED] testified to the following:
 - a. Petitioner has had pain from [REDACTED] wisdom teeth for about [REDACTED].
 - b. [REDACTED] argued that the oral surgeon's professional opinion shows that four wisdom teeth need removal due to Petitioner's reported level of pain. *See* ¶ 6.
 - c. [REDACTED] believes it is unfair to have to undergo more than one dental surgery when other teeth are impacted at the same time.

8. Petitioner testified to the following:
 - a. Petitioner asserted that [REDACTED] suffers pain with [REDACTED] two bottom teeth and [REDACTED] top right tooth.
 - b. Petitioner does not take pain medication frequently, but will if pain persists.
 - c. Petitioner testified that [REDACTED] experienced [REDACTED]
[REDACTED]
[REDACTED].
 - d. Petitioner has not sought care from [REDACTED] physician regarding [REDACTED].
 - e. Petitioner argued that the tooth pain has affected [REDACTED] ability to do school work and focus. Petitioner argued that having all teeth removed in one session would avoid interfering with [REDACTED] school responsibilities.

9. Dr. Johnson is a Dental Consultant for DentaQuest. Dr. Johnson testified to the following:
 - a. Dr. Johnson opined that if one or two teeth are approved for removal, approval is not automatic for other teeth where there is no overt clinical pathology since each tooth needs its own justification for removal. *Id.* at 35-36.

- b. The Clinical Notes do not describe the duration, intensity, or any medications used for Petitioner’s discomfort with [REDACTED] wisdom teeth. See ¶ 6.
- c. Dr. Johnson argued that pathology was not present and there was no demonstrable need to approve removal of the bottom wisdom teeth.

10. Exhibit B Benefits Covered for FL Statewide Medicaid Dental Health Program – Children Medicaid & MediKids Medicaid (“Exhibit B”) found on pages 38-39 of RCE 1, show the dental services covered under Florida Medicaid. Exhibit B states:

The prophylactic extraction of asymptomatic impacted or erupted teeth is not a covered benefit. Symptomatic conditions would include pain and/or infection or demonstrated malocclusion causing a shifting of existing dentition.

...

Surgical extractions of erupted teeth are defined as extractions requiring elevation of a mucoperiosteal flap and removal of bone and/or section of the tooth and closure in order to remove the tooth. Elevation of a mucoperiosteal flap and removal of bone and/or sectioning of the tooth for the convenience of the provider is not a surgical extraction.

Id. at 38.

CONCLUSIONS OF LAW

11. 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 (2022). This order is the final administrative decision of AHCA under section 409.285(2)(a).

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

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. 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.

15. Petitioner’s request for dental services is governed by the Florida Medicaid Oral and Maxillofacial Surgery Services Coverage Policy (May 2016) (“Oral and Maxillofacial Surgery Services Policy”), which is incorporated by reference in Fla. Admin. Code R. 59G-4.207. The Oral and Maxillofacial Surgery Services Policy provides the following:

1.1 Description

Florida Medicaid oral and maxillofacial surgery services provide extractions, surgical and adjunctive treatment of diseases, defects, and injuries of the hard and soft tissues of the oral and maxillofacial regions.

...

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 reimburses for the following services in accordance with the American Medical Association Current Procedural Terminology, and applicable Florida Medicaid fee schedule(s):

- Biopsies
- Bone, tissue, and cartilage grafts
- Consultations
- Debridement
- Endosteal implants when used in conjunction with reconstructive surgeries
- Evaluation and management
- Excisions
- Impressions and custom preparation of prosthesis
- Moderate sedation
- Open and closed treatment of fractures
- Repair and destruction of lesions
- Reconstructions
- Radiology procedures
- Surgical procedures essential to the preparation of the mouth for dentures
- Tissue repair

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

Oral and Maxillofacial Surgery Services Policy at page 3.

16. 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.

17. In the instant case, Petitioner requested oral and maxillofacial surgery services, specifically removal of impacted tooth-partially bony (code D7230) and placement of intra-socket dressing (code D7922). See ¶ 3. Respondent denied these services. See ¶ 3-4. As the basis for their decision, Respondent cited that the services must be "individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient's needs." See ¶ 3-4. In the NPAR dated March 5, 2024, Respondent upheld their denial. See ¶ 4. Petitioner has the burden of proof to show by a preponderance of evidence that the Respondent's determination was incorrect. See ¶ 13.

18. At Fair Hearing, Petitioner and [REDACTED] testified that Petitioner has experienced [REDACTED] and pain with multiple teeth. See ¶ 7-8. Petitioner argued that the pain has affected [REDACTED] ability to focus on schoolwork and requested that removal of all impacted teeth should be approved for a single surgery session. See ¶ 8. Petitioner testified that [REDACTED] does not take pain medication frequently and has not sought attention from [REDACTED] physician regarding [REDACTED].


See ¶ 8. [REDACTED] argued that the Clinical Notes demonstrate the medical necessity to have the wisdom teeth removed due to Petitioner's pain. See ¶ 7. 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 ¶ 17. Therefore, a letter from the oral surgeon does not, in itself, make the requested services medically necessary. See ¶ 6, 17. Dr. Johnson argued that pathology was not present and there was no demonstrable need to approve removal of the bottom wisdom teeth. See ¶ 9. The Clinical Notes do not describe the duration, intensity, or any medications used for Petitioner's discomfort with [REDACTED] wisdom teeth. See ¶ 6, 9. Dr. Johnson opined that if one or two teeth are approved for removal, approval is not automatic for other teeth where there is no overt clinical pathology for each tooth. See ¶ 9. The record does not demonstrate a clear pathology for the requested removal of teeth. See ¶ 3-4, 9. The record does not also demonstrate symptomatic conditions along with Petitioner's pain that would justify the medical necessity of the oral and maxillofacial surgery services at this time. See ¶ 7-10, 16.

19. Upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned concludes that Petitioner did not prove by a preponderance of the evidence that the requested service was not in excess of the Petitioner's needs. 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 of oral and maxillofacial surgery services is **AFFIRMED**. Petitioner's appeal based on Respondent's denial is **DENIED**.

DONE AND ORDERED this 2nd day of July, 2024 in Tallahassee, Leon County, Florida.

 Kimberly Roche
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KIMBERLY ROCHE, 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.

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