



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

**FILED**

Oct 11, 2024, 10:18 am

[REDACTED],  
PETITIONER,

OFFICE OF FAIR HEARINGS  
AHCA Case No.: 24-FH1740  
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 September 18, 2024, at 9:13 a.m. Eastern Standard Time (“EST”).

**APPEARANCES**

For the Petitioner:

[REDACTED]  
Petitioner’s 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 decision to deny Petitioner’s request for dental services was incorrect.

**PRELIMINARY STATEMENT**

All parties appeared telephonically. Petitioner’s Authorized Representative and [REDACTED],

[REDACTED] (“[REDACTED]”) appeared on behalf of the Petitioner.

Shonda Rushing, Complaints and Grievances Specialist for DentaQuest of Florida, Inc. (“DentaQuest”) appeared on behalf of Respondent. Dr. Linda Johnson (“Dr. Johnson”), Dental Consultant for DentaQuest, attended as a witness for Respondent.

Diana Hearod, Medical/Health Care Program Analyst for the Agency for Health Care Administration (“Agency” or “AHCA”), appeared as an observer.

Michael, interpreter ID MCHL, appeared to offer translation services.

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-eight (58)-page evidence packet. The evidence packet appears in the Office of Fair Hearings’ document management system as file title “24-FH1740 Evidence Packet.pdf”. Absent an objection from the Petitioner, the undersigned admitted the fifty-eight (58)-page evidence packet into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”).

**FINDINGS OF FACT**

1. Petitioner is an enrolled member of DentaQuest. See page 16 of RCE 1. DentaQuest is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.

2. Petitioner is [REDACTED]. *Id.*

3. Petitioner requested the following dental services: code D7240 for teeth [REDACTED]; code D7230 for teeth [REDACTED]; code D9222; and three (3) units of code D9223. *Id.* at 16. Teeth [REDACTED] are commonly referred to as wisdom teeth. Petitioner’s provider, [REDACTED] (“[REDACTED]”), made the following remarks:

[REDACTED]  
[REDACTED]

[REDACTED]

...  
Page 16 of RCE 1.

4. In a Notice of Adverse Benefit Determination (“NABD”), dated May 12, 2024, Respondent denied Petitioner’s request. *Id.* at 18 – 19. 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.

...

The facts that we used to make our decision are:

The information your dentist 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
- D7230 extraction of impacted tooth covered by bone [REDACTED]  
We based this decision on:
  - DentaQuest Clinical Criteria for Surgical Extraction
- D7230 extraction of impacted tooth covered by bone [REDACTED]  
We based this decision on:
  - DentaQuest Clinical Criteria for Surgical Extraction

Your dentist has asked for anesthesia (a medicine to make you sleep) for a service that has been denied. The request to make you sleep is also denied. We have also told your dentist. Please talk to your dentist.

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
  - D9222 general anesthetic - 15 minutes
- We based this decision on:
- DentaQuest Clinical Criteria for General Anesthesia and IV Sedation

...  
Pages 18 – 19 of RCE 1.

5. Petitioner requested a plan appeal and received a Notice of Plan Appeal Resolution (“NPAR”), dated May 15, 2024, upholding the denial. *Id.* at 41 – 42. 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 associated sedation services are also denied. The services are not medically necessary. We based this decision on DentaQuest Clinical Criteria for Surgical Extraction and DentaQuest Clinical Criteria for General Anesthesia and IV Sedation.

...  
Page 41 of RCE 1.

6. On May 24, 2024, Petitioner requested a Fair Hearing regarding the denial of dental services. On August 12, 2024, the undersigned issued an Order Scheduling Fair Hearing and Prehearing Instructions, setting the hearing for September 18, 2024, at 9:00 a.m. EST.

7. [REDACTED] testified to the following:

- a. [REDACTED] has spent more than [REDACTED] on Petitioner’s dental work.
- b. [REDACTED].
- c. Petitioner is in a lot of pain.

8. Dr. Johnson testified to the following:

- a. Dr. Johnson opined that the denial of dental services was correct.

- b. There is a box #35 on the ADA Dental Claim Form where the dentist inputted comments. This narrative is not tooth specific, it only states generally that the teeth are bothering the Petitioner. See page 16 of RCE 1.
  - c. It is extremely rare for each to experience the same symptoms, which is why a tooth specific narrative is needed from the provider.
  - d. If one tooth is causing problems, the plan will not approve for the removal of all teeth.
  - e. There's no evidence of any pathology in the radiographs. See page 33 of RCE 1.
9. Section 18.01 DentaQuest Criteria for Dental Extractions provides as follows, in pertinent part:

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
    - Provider must submit narrative and x-rays or photos describing pathology.
    - Each tooth must show pathology
    - Symptomology or impactions without pathology may not be enough
  - b. Demonstrable need
    - Narrative describing need
    - Supporting documentation (e.g. x-rays, photos, hospital admissions, etc.)
  - c. Extractions in conjunction with orthodontic treatment

- Provider must submit request for extractions from orthodontist
- Needs to be an appeal for orthodontic case
- To expedite process, provider may also want to submit orthodontic approval

#### 4. General Approval vs. Denial Guidelines

##### a. Probable Approval

- Pathology =
  1. Non-restorable Decay
  2. Tooth erupting on an angle and impinging on 2<sup>nd</sup> molars
  3. Recurrent Pericoronitis
  4. Dentigerous Cyst or other growth
  5. Internal or External Root Resorption
  6. 3<sup>rd</sup> molar has over-erupted due to lack of opposing tooth contact
- Demonstrable need =
  1. In conjunction with approved orthodontics where orthodontist requests the 3<sup>rd</sup> 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 necessary to demonstrate need

##### b. Probable Denial

- Impaction or Symptomology =
  1. Impaction with no other pathology
  2. Pain or discomfort with unknown pathology
- Other 3<sup>rd</sup> molars have pathology (if one, two, or three teeth show pathology, DQ will not automatically approve the extraction of the remaining non-pathologic teeth)

...

Pages 52 – 53 of RCE 1.

### **CONCLUSIONS OF LAW**

10. 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).

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

12. 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.).

13. 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.

14. 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

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 (May 2024) (“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
  - This requirement applies only to recipients age 21 years or older.
- 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.

17. Petitioner requested the extraction of four (4) wisdom teeth ([REDACTED]), as well as accompanying sedation. *See supra* ¶ 3. 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.” *Id.* Respondent further explained that there is no sign of infection. *Id.*

18. 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 supra* ¶ 4-5, 8. Petitioner’s provider submitted a dental narrative. *See supra* ¶ 2. Although the dental narrative explained that Petitioner experienced pain, the dental narrative was not 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 supra* ¶ 3, 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 supra* ¶ 8. As such, the record does not show that extractions of [REDACTED] wisdom teeth are not “in excess of [REDACTED] needs”. Therefore, Petitioner did not show that the extractions are medically necessary. Accordingly, the request for sedation is not medically necessary.

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 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 11th day of October 2024, in Tallahassee, Leon County, Florida.

Joseph Mabry  
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**JOSEPH MABRY, 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:**

[REDACTED]

**DentaQuest**  
**CGATeam3@dentaquest.com**

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