



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

**FILED**

Sep 25, 2024, 9:13 am

[REDACTED]

PETITIONER,

AHCA Case No.: 24-FH2050

Plan ID No.: [REDACTED]

OFFICE OF FAIR HEARINGS

vs.

MANAGED CARE OF NORTH AMERICA, 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, 2024, at 9:10 a.m., Eastern Standard Time ("EST").

**APPEARANCES**

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Josie Guevara

Complaints and Grievance Manger

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 (dental code CDT8080 Area 1 Comprehensive Orthodontic Treatment of the Adolescent Dentition) was incorrect.

**PRELIMINARY STATEMENT**

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

Josie Guevara, (“Ms. Guevara”) Complaints and Grievance Manager for Managed Care of North America, Inc. (“MCNA”), appeared as a representative for Respondent. Dr. Diane Piper (“Dr. Piper”), Interim Dental Director Florida, appeared as a witness for Respondent. Kimberly Williams and Dr. Linda Altenhoff appeared on behalf of MCNA but did not testify.

Lee Ann Williams, Medical Health Care Provider Analyst with the Agency for Health Care Administration (“Agency” or “AHCA”), appeared as an observer. Nilsa Amaya, Medical Health Care Provider Analyst with the Agency for Health Care Administration appeared as an observer.

Ruben, #402216 appeared and was sworn in to translate from English to Spanish.

Prior to the hearing, Petitioner sent to the Office of Fair Hearings and Respondent a three (3) page packet (dental photographs). The evidence packet appears in the Office of Fair Hearings’ case management system as “[REDACTED] Pictures.pdf.” Absent an objection from Respondent, the undersigned admitted Petitioner’s evidence packet into evidence as Petitioner’s Composite Exhibit #1.

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 “Evidence Packet [REDACTED] Issue 354636 2 (1).pdf.” Absent an objection from Petitioner, the undersigned admitted Respondent’s evidence packet into evidence as Respondent’s Composite Exhibit 1.

### **FINDINGS OF FACT**

1. Petitioner is an enrolled member of MCNA Florida Statewide Medicaid Dental Health Program. See Respondent's Composite Exhibit 1 on page 1. MCNA is a Managed Care Organization contracted by AHCA to provide services to eligible Medicaid recipients in Florida.

2. Petitioner is [REDACTED] old. Petitioner's dental services provider ("Provider") submitted a Medicaid Orthodontic Initial Assessment Form (IAF) on behalf of Petitioner requesting preauthorization of dental services. *Id.* at 12. Petitioner's Provider requested the following dental services: CDT8080 Area 1 – Comprehensive Orthodontic Treatment of the Adolescent Dentition. *Id.* at 1 & 4.

3. MCNA included in the evidence packet, the Medicaid Orthodontic Initial Assessment Form (IAF) as completed by the Provider. The IAF was marked at paragraph 3, "Crossbite of Individual Anterior teeth." Paragraph 3 also requires a finding "When destruction of soft tissue is present." *Id.* at 12.

4. Petitioner's Provider submitted dental x-rays, 3D Model Images, and color photographs of Petitioner's face and mouth. *Id.* at 11-15.

5. On April 18, 2024, MCNA issued a Notice of Adverse Benefit Determination ("NABD") denying Petitioner's request for dental services. *Id.* at 4-8. MCNA stated that Petitioner's requested dental services were denied because they were not medically necessary. *Id.* The NABD stated 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*)

- X Must be needed to protect life, prevent significant illness or disability, or alleviate severe pain.
- X Must be individualized, specific, consistent with symptoms or diagnosis of illness or injury and not be in excess of the patient's needs.
- X 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 Orthodontic criteria as stated in MCNA's Utilization Review Criteria and Guidelines. The information we received from your requesting provider does not show that:

You have a cleft palate defect where the roof of your mouth has not formed the right way.

Your lower teeth are hitting and harming the gums behind the upper front teeth.

Your upper front teeth are behind the lower front teeth causing damage to the gums of the lower teeth.

You have had an injury that caused harm to the teeth or gums, for example, burn or infection.

6. Petitioner appealed the denial of the requested dental services. *Id.* at 32. On

June 17, 2024, MCNA issued a Notice of Plan Appeal Resolution ("NPAR")

upholding the denial of the dental services. *Id.* at 32. The NPAR explained as follows:

On June 7, 2024, we received your timely plan appeal request regarding MCNA Dental's Notice of Adverse Benefit Determination dated April 18, 2024, NABD Number [REDACTED], denying CDT 8080 Comprehensive Orthodontic Treatment of the Adolescent Dentition provided to [Petitioner's Name].

On June 14, 2024, after consideration of the information you provided to Florida Medicaid Dental Health Program in support of your plan appeal, MCNA hereby denies your plan appeal.

Based upon the information reviewed with the appeal, our Clinical Reviewer who is a Board-Certified Orthodontic Dentist has determined [Petitioner's Name] condition did not meet MCNA's Orthodontic Services as stated in MCNA's

Utilization Review and Criteria Guidelines. Dental services must meet the definition of medical necessity as defined in 59G-1.010 of the Florida Administrative Code.

*Id.* at 32.

7. MCNA relied upon Florida Medicaid Orthodontics Criteria, D8010 – D8999. The Clinical Criteria for Orthodontics states as follows:

D8080 comprehensive orthodontic treatment of the adolescent dentition

...

CRITERIA

...

#3 Crossbite of individual anterior teeth. When destruction of soft tissue is present.

*Id.* at 28-30.

8. On June 21, 2024, [REDACTED] requested a Medicaid Fair Hearing on behalf of Petitioner, based on MCNA's denial of Petitioner's request for dental services. The undersigned scheduled the Fair Hearing for September 11, 2024, at 9:00 a.m. EST, and all parties were duly notified.

9. [REDACTED] is Petitioner's parent. [REDACTED] believes that Petitioner needs braces based on the Providers recommendation. Petitioner stated that [REDACTED] teeth were not "coming in" as they should and needed to be corrected. [REDACTED] testified that [REDACTED] has stated that [REDACTED] teeth [REDACTED].

10. Dr. Piper is a Dental Consultant with MCNA. Referring to the Medicaid Orthodontic Initial Assessment form as completed by the provider, Dr. Piper testified that the provider identified a crossbite of individual anterior teeth. *Id.* at 12. However, the provider did not provide any evidence of the destruction of soft tissue being present. A review of the photographs from the provider does not show any soft tissue destruction. *Id.* at 11. Without

both the crossbite and the soft tissue destruction being present there was no auto-qualifier for the requested services. Dr. Piper observed that the provider did not mark any other areas on the Medicaid assessment form. Dr. Piper stated that MCNA is required to follow the Medicaid rules and criteria when reviewing cases for pre-authorization of dental services. Dr. Piper agreed with the previous denial of the requested services and found that the requested services would be in excess of the Petitioner's needs, at this time. As the Petitioner's request did not meet the five criteria of medical necessity, the services cannot be authorized and are not medically necessary at this time.

#### **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. 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 Florida Administrative Code Rule ("Fla. Admin. Code R.") 59G-1.100(17)(b).

13. 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.

14. 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.).

15. 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.

**1.1 Florida Medicaid Policies**

This policy is intended for use by providers that render dental services to eligible Florida Medicaid recipients. It must be used in conjunction with Florida Medicaid’s general policies (as defined in section 1.3) and any applicable service-specific and claim reimbursement policies with which providers must comply.

...

**1.2 Statewide Medicaid Managed Care Plans**

Florida Medicaid managed care plans must comply with the service coverage requirements outlined in this policy, unless otherwise specified in the AHCA contract with the Florida Medicaid managed care plan. The provision of services to recipients enrolled in a Florida Medicaid managed care plan must not be subject to more stringent service coverage limits than specified in Florida Medicaid policies.

...

**1.4 Definitions**

The following definitions are applicable to this policy. For additional definitions that are applicable to all sections of Rule Division 59G, F.A.C., please refer to the Florida Medicaid Definitions Policy.

...

**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

16. States must provide Early and Periodic Screening, Diagnostic, and Treatment ("EPSDT") services to Medicaid-eligible children under age 21 when requested under the Medicaid state

plan. *See* 42 U.S.C. § 1396a(a)(43); 42 U.S.C. § 1396d(a)(4). According to 42 U.S.C. § 1396d(r)(3) and (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.

...

(5) 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.

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. The Florida Medicaid Definitions Policy (August 2017) (“Definitions Policy”), which is incorporated by reference in Fla. Admin. Code R. 59G-1.010, defines “medical necessity” as follows:

### **2.83 Medically Necessary or Medical Necessity**

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.

19. In the instant case, Petitioner requested dental services (orthodontic braces). *See supra*

¶ 2. The evidence admitted and testimony presented in this case establish that Respondent denied Petitioner's request for dental services, because the requested services were not medically necessary according to section 2.83 of the Definitions Policy. *See supra* ¶ 5 and 6.

20. 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* ¶ 15.

21. Section 2.2 of the Dental Policy reflects that "Florida Medicaid recipients requiring medically necessary dental services" may receive services. *See supra* ¶ 15. 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* ¶ 18. Accordingly, all five (5) of the conditions must be met in order for MCNA to approve the requested dental services.

22. Petitioner is under age 21, and therefore eligible for EPSDT services. *See supra* ¶ 2. 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* ¶ 17. 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* ¶ 16.

23. 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* ¶ 9. However, Petitioner’s Provider submitted the Medicaid Orthodontic Initial Assessment Form which only identifies that the Petitioner has a crossbite of anterior teeth without a finding that there also exists a destruction of soft tissue being present. Dr. Piper, a licensed dentist and Dental Consultant for MCNA, explained that based upon [REDACTED] review of the documentation, and photos submitted by Petitioner’s provider, the Petitioner does not meet the criteria established by Medicaid at this time. *See supra* ¶ 10.

24. Section 2.83 of the Definitions Policy sets forth the definition of medical necessity, which mandates that “[t]he medical or allied care, goods, or services furnished or ordered must . . . [b]e

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.” See supra ¶ 18. Petitioner’s Provider failed to satisfy the requirements of Medicaid’s criteria for approval of braces. Based upon Dr. Piper’s review of the documentation submitted by Petitioner’s Provider, Petitioner did not meet the criteria set forth on the Medicaid Orthodontic Initial Assessment Form criteria. See supra ¶ 10. Given these facts, Petitioner has not demonstrated that the requested dental services are “individualized, specific, consistent with symptoms or diagnosis of illness or injury” and not “in excess of the patient’s needs.” See supra ¶ 18.

25. Petitioner’s Provider submitted the Medicaid Orthodontic Initial Assessment form on behalf of Petitioner requesting preauthorization of dental services. See supra ¶ 2. However, section 2.83 of the Definitions Policy mandates that “[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 supra ¶ 18.

26. In light of the testimony and evidence presented, 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. Accordingly, Petitioner did not prove by a preponderance of the evidence that Respondent’s denial of Petitioner’s request for dental services was incorrect.

### **DECISION**

Respondent's denial of Petitioner's request for dental services (dental code D8080 for Comprehensive Orthodontic Treatment of the Adolescent Dentition) is **AFFIRMED**. Petitioner's request for relief is **DENIED**.

**DONE and ORDERED** this 25<sup>th</sup> day of September 2024, in Tallahassee, Leon County, Florida.

George L. Winslow, Jr.



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**GEORGE WINSLOW, 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]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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

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