STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: March 20, 2018
[redacted]
AGENCY: MAP
FH #: 7723841L

In the Matter of the Appeal of

[redacted]

from a determination by the New York City Department of Social Services

DECISION AFTER FAIR HEARING

JURISDICTION

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of Title 18 NYCRR, (hereinafter Regulations), a fair hearing was held on June 13, 2018, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

[redacted]

For Centers Plan for Healthy Living

Appearance on paper

ISSUES

Was the determination of Centers Plan for Healthy Living, dated March 13, 2018, to deny the Appellant's dentist's prior approval request for a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2791) for tooth #19, and for the Appellant, correct?

Was the determination of Centers Plan for Healthy Living, dated March 13, 2018, to deny the Appellant's dentist's prior approval request for a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2751) for tooth #20, and for the Appellant, correct?

FACT FINDINGS

An opportunity to be heard having been afforded to all interested parties and evidence having been taken and due deliberation having been had, it is hereby found that:

1. The Appellant, age 72, has been in receipt of Medical Assistance benefits provided through Centers Plan for Healthy Living ("Centers Plan"), a Medical Assistance managed long term care partial cap plan. Centers Plan has delegated the management of the Appellant's dental benefits and services to Healthplex ("Healthplex").

2. On February 27, 2018, the Appellant's dentist requested approval by Centers Plan for a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2791) for tooth #19, as well as a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2751) for tooth #20, and all for the Appellant.

3. By Notice dated March 13, 2018, Centers Plan informed the Appellant of its determination to deny Appellant's dentist's prior approval request for a crown (Procedure Code D2791) for tooth #19 and a crown (Procedure Code D2751) for tooth #20 and all for the Appellant on the grounds that:

> *"Program Dental Guidelines will not cover this service because there are 8 points of teeth (4 top and 4 bottom) in biting contact. This decision was based on a review of the dental records submitted by your dentist."*

In addition, Centers Plan informed the Appellant of its determination to deny Appellant's dentist's prior approval request for prefabricated posts and cores for teeth #19 and #20 on the grounds that:

"*Other treatment associated with this service has been denied based* on *Program Dental Guidelines. Therefore, this service is also denied."*

4. On March 20, 2018, the Appellant requested this fair hearing to review Centers Plan's determination of March 13, 2018.

APPLICABLE LAW

Section 365-a of the Social Services Law provides in part:

2. "Medical Assistance" shall mean payment of part or all of the cost of care, services and supplies which are necessary to prevent, diagnose, correct or cure conditions in the person that cause acute suffering, endanger life, result in illness or infirmity, interfere with his capacity for normal activity, or threaten some significant handicap and which are furnished an eligible person in accordance with this title, and the regulations.

Section 364-j (1)(c) of the Social Services Law defines "Managed Care Program" as a program in a social services district in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid services, including case management, directly or indirectly (including by referral) from a managed care provider ("Medicaid Managed Care Health Plan"), or, if applicable, from a mental health special needs plan or a comprehensive HIV special needs plan.

Section 506.2(a) of 18 NYCRR provides that dental care in the Medical Assistance program shall include only preventive, prophylactic and other routine dental care, services and supplies, and dental prosthetic and orthodontic appliances required to alleviate a serious health condition including one which affects employability.

The United State Department of Health and Human Services (Health Care Finance Administration) has granted the State of New York a waiver under Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

According to the dental provider manual, services provided must conform to acceptable standards of professional practice. Dental care provided under the Medicaid program must meet as high standards of quality as can reasonably be provided to the community-at-large. All materials and therapeutic agents used or prescribed must meet the minimum specifications of the American Dental Association, and must be acceptable to the State Commissioner of Health. Experimental procedures are not reimbursable in the Medicaid program.

The New York State Medicaid Program, Dental Policy and Procedure Code Manual, states in pertinent part:

Section II - Dental Services

Dental Care in the Medicaid program shall include only **ESSENTIAL SERVICES** rather than comprehensive care. The provider should use this Manual to determine when the Medicaid program considers dental services "essential". The application of standards related to individual services is made by the DOH when reviewing individual cases.

Standards of Quality

Services provided must conform to acceptable standards of professional practice.

Quality of Services Provided

Dental care provided under the Medicaid program must meet as high a standard of quality as can reasonably be provided to the community-at-large. All materials and therapeutic agents used or prescribed must meet the minimum specifications of the American Dental Association, and must be acceptable to the State Commissioner of Health. Experimental procedures are not reimbursable in the Medicaid program.

3. “ESSENTIAL” SERVICES:
When reviewing requests for services the following guidelines will be used:
Treatment will not be routinely approved when functional replacement with less costly restorative materials, including prosthetic replacement, is possible.

Caries index, periodontal status, recipient compliance, dental history, medical history and the overall status and prognosis of the entire dentition, among other factors, will be taken into consideration. Treatment is not considered appropriate when the prognosis of the tooth is questionable or when a reasonable alternative course of treatment would be extraction of the tooth and replacement. Treatment such as endodontics or crowns will not be approved in association with an existing or proposed prosthesis in the same arch, unless the tooth is a critical abutment for a prosthesis provided through the NYS Medicaid program, or unless replacement by addition to an existing prosthesis or new prosthesis is not feasible. If the total number of teeth which require, or are likely to require treatment would be considered excessive or when maintenance of the tooth is not considered essential or appropriate in view of the overall dental status of the recipient, treatment will not be covered. Treatment of deciduous teeth when exfoliation is reasonably imminent will not be routinely reimbursable. Claims submitted for the treatment of deciduous cuspids and molars for children ten (10) years of age or older, or for deciduous incisors in children five (5) years of age or older will be pended for professional review. As a condition for payment, it may be necessary to submit, upon request, radiographic images and other information to support the appropriateness and necessity of these restorations. Extraction of deciduous teeth will only be reimbursed if injection of a local anesthetic is required.

Eight (8) posterior natural or prosthetic teeth (molars and/or bicuspids) in occlusion (four (4) maxillary and four (4) mandibular teeth in functional contact with each other) will be considered adequate for functional purposes. Requests will be reviewed for necessity based upon the presence/absence of eight (8) points of natural or prosthetic occlusal contact in the mouth (bicuspid/molar contact).

One (1) missing maxillary anterior tooth or two (2) missing mandibular anterior teeth may be considered an esthetic problem that warrants a prosthetic replacement.
Services Not Within the Scope of the Medicaid Program

III. RESTORATIVE D2000 - D2999

CROWNS - SINGLE RESTORATIONS ONLY

The materials used in the fabrication of a crown (e.g. all-metal, porcelain, ceramic, resin) is at the discretion of the provider. The crown fabricated must correctly match the procedure code approved on the Prior Approval.

Crowns will not be routinely approved for a molar tooth in those members age 21 and over which has been endodontically treated without prior approval from the Department of Health.

Crowns include any necessary core buildups.

D2751	**Crown – porcelain fused to predominately base metal** (TOOTH) (PA REQUIRED)
D2791	**Crown – full cast predominately base metal** (TOOTH) (PA REQUIRED)
D2954	**Prefabricated post and core in addition to crown** (TOOTH)

There is no separate reimbursement for the core material.

Section 358-5.9 of the Regulations provide in part:

(a) At a fair hearing concerning the denial of an application for or the adequacy of public assistance, medical assistance, HEAP, SNAP benefits or services, the appellant must establish that the agency's denial of assistance or benefits was not correct or that the appellant is eligible for a greater amount of assistance or benefits.

DISCUSSION

The record establishes that the Appellant has been in receipt of Medical Assistance benefits provided through Centers Plan for Healthy Living ("Centers Plan"), a Medical Assistance managed long term care partial cap plan. Centers Plan has delegated the management of the Appellant's dental benefits and services to Healthplex ("Healthplex"). The record then establishes that on February 27, 2018, the Appellant's dentist requested approval by Centers Plan for a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2791) for tooth #19, as well as a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2751) for tooth #20, and all for the Appellant. The record further establishes that by Notice dated March 13, 2018, Centers Plan informed the Appellant of its determination to deny Appellant's dentist's prior approval request for a crown (Procedure Code D2791) for tooth #19 and a crown (Procedure Code D2751) for tooth #20 and all for the Appellant on the grounds that:

> *"Program Dental Guidelines will not cover this service because there are 8 points of teeth (4 top and 4 bottom) in biting contact. This decision was based on a review of the dental records submitted by your dentist."*

In addition, Centers Plan informed the Appellant of its determination to deny Appellant's dentist's prior approval request for prefabricated posts and cores for teeth #19 and #20 on the grounds that:

> "*Other treatment associated with this service has been denied based* on *Program Dental*

Guidelines. Therefore, this service is also denied."

On March 20, 2018, the Appellant requested this fair hearing to review Centers Plan's determination of March 13, 2018.

It is noted that tooth #19 is a molar tooth while tooth #20 is not.

Centers Plan, duly notified of this hearing, appeared on paper and provided several documents in an effort to substantiate its determination, including a tooth chart and for the Appellant, that provides for the following teeth being in biting contact: 4 and 29; 5 and 28; 12 and 21; and 15 and 18. The record establishes that the Appellant did not deny having at least 8 points of teeth in biting contact.

It is noted that the New York State Medicaid Program Dental Policy and Procedure Code Manual (Manual") provides, in pertinent part and regarding molar tooth #19:

Crowns will not be routinely approved for a molar tooth in those beneficiaries age 21 and over which has been endodontically treated without prior approval from the Department of Health.

It is further noted that the New York State Medicaid Program Dental Policy and Procedure Code Manual (Manual") provides, in pertinent part and regarding tooth #20:

Section II - Dental Services

Dental Care in the Medicaid program shall include only ***ESSENTIAL SERVICES*** *rather than comprehensive care. The provider should use this Manual to determine when the Medicaid program considers dental services "essential". The application of standards related to individual services is made by the DOH when reviewing individual cases.*

3. "ESSENTIAL" SERVICES:

Eight (8) posterior natural or prosthetic teeth (molars and/or bicuspids) in occlusion (four (4) maxillary and four (4) mandibular teeth in functional contact with each other) will be considered adequate for functional purposes. Requests will be reviewed for necessity based upon the presence/absence of eight (8) points of natural or prosthetic occlusal contact in the mouth (bicuspid/molar contact).

The record establishes that the Appellant requested this hearing due to having an inability to eat. The Appellant's testimony has been carefully considered; however, the record fails to establish the Appellant's eligibility, pursuant to Medicaid guidelines, for crowns for teeth #19 and #20. Furthermore, as the Appellant failed to establish eligibility, pursuant to Medicaid guidelines, for crowns for teeth #19 and #20, the determination to also deny prefabricated posts and cores (necessary for support of the requested crowns) for said teeth must be upheld. As such, the record supports the determination to deny the Appellant's dentist's prior approval request for crowns, posts and cores for teeth #19 and #20 and for the Appellant.

Section 358-5.9 of the Social Services Law provides, in pertinent part and as applicable in the present case, that at a fair hearing concerning the denial of medical assistance or services, the Appellant must establish the denial of assistance or benefits was not correct. The record establishes that the Appellant did not meet her burden. As such, the determination of Centers Plan for Healthy Living, dated March 13, 2018 must be sustained.

It is noted that, at this hearing, the Appellant's Representative clarified that the Appellant sought a review of the determination, dated March 13, 2018, by Centers Plan for Healthy Living to deny the Appellant's dentist's prior approval request for prefabricated posts, cores and crowns for teeth #19 and #20 and for the Appellant, only.

DECISIONS

The determination of Centers Plan for Healthy Living, dated March 13, 2018, to deny the Appellant's dentist's prior approval request for a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2791) for tooth #19, and for the Appellant, was correct.

The determination of Centers Plan for Healthy Living, dated March 13, 2018, to deny the Appellant's dentist's prior approval request for a prefabricated post and core (Procedure Code D2954) and crown (Procedure Code D2751) for tooth #20, and for the Appellant, was correct.

DATED: Albany, New York
06/15/2018

NEW YORK STATE
DEPARTMENT OF HEALTH

By

Commissioner's Designee