

STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: April 8, 2019

AGENCY: MAP
FH #: 7940652M

In the Matter of the Appeal of
[REDACTED]
from a determination by the New York City
Department of Social Services

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**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 May 13, 2019, 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
([REDACTED], Inc.)

Appearance waived by the Office of Administrative Hearings

ISSUE

Was the November 23, 2016, determination by the Appellant's Managed Care Plan, [REDACTED] to deny the prior approval request of the Appellant's dentist for crowns for tooth numbers 13, 20, 21, 28 and 29 for the Appellant correct?

FACT FINDING

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 67, has been in receipt of Medicaid benefits provided through a Managed Care Plan, [REDACTED] (administrator of the Centers Plan for Healthy Living dental plan).

2. The Appellant's dentist requested prior approval for several crowns for tooth numbers 13, 20, 21, 28 and 29 for the Appellant.

3. On February 5, 2019, the Managed Care Plan determined to deny the Appellant's dentist's prior approval request for several crowns for tooth numbers 20, 21, 28 and 29 for the Appellant on the grounds support that the crowns were not medically necessary because the teeth can be removed due to poor prognosis.

4. On April 8, 2019, this hearing was requested.

APPLICABLE LAW

Section 358-5.9 of the Regulations provide in part:

(a) At a fair hearing concerning the adequacy of Medical Assistance, the Appellant must establish that the Agency's benefits were not correct or that the Appellant is eligible for a greater amount of assistance or benefits.

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.

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 medically necessary medical, dental and remedial care, services and supplies, as authorized by this title or the regulations..., 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 such person's capacity for normal activity, or threaten some significant handicap and which are furnished an eligible person in accordance with this title and the regulations of....

Section 364.2 of the Social Services Law provides in part, as follows:

The Department of Health shall be responsible for...

(b) establishing and maintaining standards for all non-institutional health care and services rendered pursuant to this title...

The New York State Medicaid Dental Provider Manual provides that services provided must conform to acceptable standards of professional practice and includes only essential services (rather than "comprehensive" services).

The New York State Medicaid Dental Provider Manual also provides when reviewing requests for services the following guidelines will be used: Treatment will not be routinely approved when functional replacement of tooth contour with less costly restorative materials, including prosthetic replacement, is possible. Caries index, periodontal status, beneficiary 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 beneficiary, treatment will not be covered.

DISCUSSION

The record establishes that the Appellant has been in receipt of Medicaid benefits provided through a Managed Care Plan, Centers Plan for Health Living (via [REDACTED] administrator of the Centers Plan for Health Living dental plan). The record also establishes that the Appellant's dentist requested prior approval for several crowns for tooth numbers 13, 20, 21, 28 and 29 for the Appellant.

The record also establishes that on February 5, 2019, the Managed Care Plan determined to deny the Appellant's dentist's prior approval request for a crown for tooth numbers 20, 21, 28 and 29 for the Appellant on the grounds support that the crowns were not medically necessary because the teeth can be removed due to poor prognosis.

Based upon the record at the hearing, New York State Medicaid Dental Provider Manual provides in part that, **“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.”** The Appellant has failed to rebut the Plan’s determination that the prognosis for the following teeth (20, 21 28 and 29) are poor and that there is no other alternative treatment available.

The Plan, however, must send the Appellant and the Appellant’s Doctor a final Notice of its determination if the Appellant did not receive such copy.

Accordingly, the Plan’s determination must be sustained.

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The record further shows that the managed Care Plan had approved a subsequent request for Amalgam for tooth number 13. Therefore, no issue remains to be decided for this tooth.

DECISION

The Managed Care Plan determined to deny the Appellant's dentist's prior approval request for several crowns for tooth numbers 20, 21, 28 and 29 for the Appellant on the grounds support that the crowns were not medically necessary because the teeth can be removed due to poor prognosis is correct.

DATED: Albany, New York
07/02/2019

NEW YORK STATE
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, appearing to read "Jacob Kello". The signature is fluid and cursive, with the first name "Jacob" and last name "Kello" clearly distinguishable.

Commissioner's Designee