

STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: October 18, 2018

AGENCY: MAP
FH #: 7845751Z

In the Matter of the Appeal of	:
	: DECISION
	AFTER
	: FAIR
	HEARING
from a determination by the New York City	:
Department of Social Services	:

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 November 9, 2018, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant



For the Managed Care Plan (Centers Plan for Healthy Living)

Centers Plan for Healthy Living's appearance waived by the Office of Administrative Hearings – "papers" only

ISSUE

Was the determination by the Managed Care Plan, Center's Plan for Healthy Living, to deny the request made by the Appellant's dentist for a prior approval of coverage for root canal therapy, crown and post for tooth number 24, tooth number 25 and tooth number 28 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 eighty-four, has been in receipt of Medical Assistance benefits provided through a Managed Care Plan, Centers Plan for Healthy Living (hereinafter, the Plan).
2. The Plan's dental administrator is HealthPlex.

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3. The Appellant's dentist requested of the Plan a prior approval for root canal therapy, crown and post for tooth numbers 24, 25 and 28.

4. By Initial Adverse Determination dated June 1, 2018, the Plan informed the Appellant of its determination to deny the Appellant's dentist's prior approval request for root canal therapy, crown and post for tooth numbers 24, 25 and 28 because the dental services are not medically necessary.

5. A request for an internal appeal was submitted to the Plan.

6. By Final Adverse Determination dated July 5, 2018, the Plan informed the Appellant of its determination to uphold its Initial Adverse Determination.

7. On October 18, 2018, this fair 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 was not correct or that the Appellant is eligible for a greater amount of assistance or benefits.

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...

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, . . .

* * *

Pursuant to regulations at 18 NYCRR 513.0, where prior approval of medical, dental and remedial care, services or supplies is required under the MA program, such prior approval will

be granted when the medical, dental and remedial care, services or supplies are shown to be medically necessary to prevent, diagnose, correct or cure a condition of the recipient which: (1) causes acute suffering; (2) endangers life; (3) results in illness or infirmity; (4) interferes with the capacity for normal activity; or (5) threatens to cause a significant handicap. Pursuant to 18 NYCRR 513.6, the determination to grant, modify or deny a request initially must be made by qualified Department of Health professional staff exercising professional judgment based upon objective criteria and the written guidelines of the Department of Health and regulations, and commonly accepted medical practice.

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.

Section 506.3(b) of the Regulations requires prior approval for all dental prosthetic appliances which shall be furnished only if required to alleviate a serious health condition including one which affects employability.

With regard to endodontics, the New York State Medicaid Program Provider Manual for Dental Procedure Codes provides, in pertinent part, as follows:

Provision of root canal therapy 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. Root canal therapy will not be approved in association with an existing or proposed prosthesis in the same arch, unless the tooth is a critical abutment, or unless its replacement by addition to an existing prosthesis is not feasible. If the total number of teeth which require, or are likely to require, root canal therapy or apical surgery 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 patient, treatment will not be covered.

With regard to restorative treatment, including crowns, the New York State Medicaid Program Provider Manual for Dental Procedure Codes Section III provides, in pertinent part, as follows:

Codes D2710, D2720, D2721, D2722, D2740, D2750, D2751, and D2752 will only be reimbursed for anterior teeth and maxillary first bicuspid when indicated.

Crowns will not be routinely approved when functional replacement of tooth contour with other restorative materials is possible, or for a molar tooth in those patients age 21 and over which has been endodontically treated without prior approval from the Department of Health. Also, crowns will not be routinely approved when there are eight natural or prosthetic bicuspid and/or molars (four maxillary and four mandibular teeth) in functional contact with each other.

Eight posterior teeth in occlusion (four maxillary and four mandibular teeth in functional contact with each other) will be considered adequate for functional purposes. Requests for partial dentures, endodontic therapy, posts and crowns will be reviewed for necessity based upon the presence/absence of eight points of occlusal contact in the mouth (bicuspid/molar contact).

DISCUSSION

In this matter, the uncontroverted evidence establishes that Appellant has been in receipt of Medical Assistance benefits provided through a Managed Care Plan, Centers Plan for Healthy Living (hereinafter, the Plan). The Plan's dental administrator is HealthPlex. The uncontested evidence establishes the Appellant's dentist requested prior approval for root canal therapy, crown and post for tooth numbers 24, 25 and 28.

By Initial Adverse Determination dated June 1, 2018, the Plan informed the Appellant of its determination to deny the Appellant's dentist's prior approval request for root canal therapy, crown and post for tooth numbers 24, 25 and 28 because the dental services are not medically necessary. A request for an internal appeal was submitted to the Plan. An Appeal Review Form, signed by a clinical reviewer, shows that Appellant is missing seven teeth in Appellant's lower arch, as follow, tooth numbers 17, 18, 19, 20, 22, 29 and 30. The undisputed evidence also shows that by Final Adverse Determination dated July 5, 2018, the Plan informed the Appellant of its determination to uphold its Initial Adverse Determination.

At the hearing, the Appellant's daughter testified that Appellant has existing lower partial denture. She also explained that Appellant experiences severe pain in tooth numbers 24, 25 and 28. The Appellant's daughter stated that Appellant's dentist explained that an extraction of the teeth in question in unnecessary as same are salvageable.

However, the Appellant failed to present evidence establishing that the Plan's determination that the requested dental service is not medically necessary is not correct. Notably, the Appellant has failed to present evidence that tooth numbers 24, 25 and 28 are critical abutments to Appellant's existing lower partial denture. Also, the Appellant did not present evidence which would establish an absence of eight natural or prosthetic bicuspid and/or molars (four maxillary and four mandibular teeth) in functional contact with each other. Thus, the Plan's determination, therefore, must be sustained in accordance with applicable Medicaid guidelines.

DECISION

The Appellant's Managed Care Plan's determination to deny the Appellant's dentist's prior approval request for root canal therapy, crown and post for tooth numbers 24, 25 and 28 is correct.

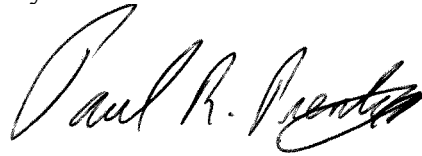
DATED: Albany, New York

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12/13/2018

NEW YORK STATE
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, appearing to read "Paul R. Hunt", with a stylized flourish at the end.

Commissioner's Designee