


STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: November 28, 2017

AGENCY: Suffolk

FH #: 7655140Q

In the Matter of the Appeal of	:
	: DECISION
	AFTER
	: FAIR
	HEARING
from a determination by the Suffolk County	:
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 May 17, 2018, in Suffolk County, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant



For the Agency or MCO


Centers Plan for Healthy Living-Medical Assistance Managed Care Organization (MCO)
Agency (MCO) appearance waived by the Office of Administrative Hearings

ISSUE

Was the MCO's determination to deny the Appellant's dentist's prior approval request for crowns on teeth #s 6 and 20 on the grounds that neither is a critical abutment for an existing functional prosthesis (denture or bridge) and a reasonable alternative would be extraction and replacement with an existing or proposed prosthesis correct?

FINDINGS OF FACT

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 , has been in receipt of a Medical Assistance authorization for just herself. She is enrolled in Centers Plan for Healthy Living, a Medical Assistance Managed Care Organization. Healthplex is the dental administrator for Centers Plan for Healthy

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Living.

2. On October 18, 2017, the Appellant's dentist requested prior approval for upper and lower partial dentures, crowns on teeth #s 6 and 20, fillings on teeth #s 14 and 28 and extraction of tooth # 4 for the Appellant.

3. By notice dated, October 19, 2017, the MCO approved the Appellant's dentist's prior approval request for upper and lower partial dentures, fillings on teeth #s 14 and 28 and extraction of tooth # 4, but denied the request for crowns on teeth #s 6 and 20.

4. The notice advised the Appellant that the denial of the request for crowns on teeth #s 6 and 20 was on the grounds that the service is not medically necessary and the Program Dental Guidelines will not cover a crown because the tooth can either be replaced by or restored with other materials. The Appellant was further advised that, based on the documentation received, the teeth are not critical abutments for an existing functional prosthesis (denture or bridge) and a reasonable alternative would be extraction and replacement with an existing or proposed prosthesis.

5. On November 28, 2017, the Appellant requested this fair hearing.

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 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)

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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 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

The record established that the MCO determined to deny the Appellant's dentist's prior approval request for crowns on teeth #s 6 and 20 on the grounds that the service is not medically necessary and the Program Dental Guidelines will not cover a crown because the tooth can either be replaced by or restored with other materials. The Appellant was further advised that, based on the documentation received, the teeth are not critical abutments for an existing functional prosthesis (denture or bridge) and a reasonable alternative would be extraction and replacement with an existing or proposed prosthesis.

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At the hearing, the Appellant's POA explained that the Appellant's dentist indicated that the important and necessary procedures already approved for the Appellant will not be possible without the shoring up of the teeth at issue since they would essentially become critical abutments for the proposed prosthesis, already approved. To buttress her contention, the POA submitted two letters from the Appellant's dentist. One of the letters explained why the procedures at issue is critical for the success of the procedures already approved and the other letter was to document and establish medical necessity for this Appellant based on her advanced age and medical issues.

The record of this hearing warrants a directive to the MCO to review the Appellant's dentist's request with reference to the dentist's remarks and medical information in both documents and to determine whether the Appellant did indeed meet the criteria for an approval in this instance. The MCO is directed to advise the Appellant in writing as to why the MCO disagree with the dentist's specific finding, if the MCO, in fact disagree, after the directed review. Accordingly, the MCO's determination in this case was not correct and is reversed.

DECISION AND ORDER

The MCO's determination to deny the Appellant's dentist's prior approval request for crowns on teeth #s 6 and 20 on the grounds that neither is a critical abutment for an existing functional prosthesis (denture or bridge) and a reasonable alternative would be extraction and replacement with an existing or proposed prosthesis was not correct and is reversed.

The MCO is directed to withdraw its October 19, 2017 Notice denying crowns for teeth for #6 and # 20.

The MCO is reminded of its obligations pursuant to GIS 13/MA 015.

As required by 18 NYCRR 358-6.4, the MCO must comply immediately with the directives set forth above.

DATED: Albany, New York
05/23/2018

NEW YORK STATE
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, appearing to read "Selma Lee", is written over a horizontal line.

Commissioner's Designee