STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: January 9, 2018
[redacted]
AGENCY: MAP
FH #: 7680680Y

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 February 28, 2018, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

[redacted]

For the Managed Care Plan

Dr. Arnold Widman, DDS (by telephone), Fair Hearing Representative

ISSUE

Was the determination of the Appellant's Managed Care Provider, Healthplex, to deny the Appellant's dentist's prior approval request for post, core and crown for tooth number 22 and crown for teeth numbers 23 and 26 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 70, has been in receipt of Medicaid benefits provided through a Managed Care Provider Centers Plan for Healthy Living ("Centers Plan").

2. Centers Plan has delegated the management of the dental benefit and services to

Healthplex.

3. On October 27, 2017, the Appellant's dentist requested prior approval for post, core and crown for tooth number 22 and crown for teeth numbers 23 and 26 for the Appellant.

4. On October 31, 2017, Healthplex determined to deny the Appellant's dentist's prior approval request because the Program Dental Guidelines will not cover a crown because the tooth can either be replaced by or restored with other materials.

5. On January 9, 2018, the Appellant requested this fair hearing.

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.

The United States 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. An "Operational Protocol" (Protocol) has been approved by the Health Care Finance Administration as required by the Terms and Conditions governing the demonstration waiver. Such Protocol details the day-to-day operations of the managed care program for both Medicaid and Family Health Plus.

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.

The New York State Medicaid Dental Provider Manual provides, in pertinent part, as follows:

"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.

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 bicuspids 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 bicuspids 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).

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 evidence establishes that the Appellant's dentist requested prior approval for post, core and crown for tooth number 22 and crown for teeth numbers 23 and 26 for the Appellant. Healthplex determined to deny the Appellant's dentist's prior approval request because the Program Dental Guidelines will not cover a crown because the tooth can either be replaced by or restored with other materials.

At the hearing the Managed Care Plan representative explained that the Appellant's request was denied because the Plan approved a partial lower denture for the Appellant. The Representative further testified that the lower partial denture can include teeth 22, 23 and 26. The Appellant testified that she does not want teeth 22, 23 and 26 to be extracted because they are the only teeth she has. However, the Appellant, who has the burden of proof regarding the denial of service, did not submit any documentary evidence to contradict Healthplex's determination. Based upon the foregoing, Healthplex's determinations must be sustained.

DECISION

The determination of the Appellant's Managed Care Provider, Healthplex, to deny the Appellant's dentist's prior approval request for post, core and crown for tooth number 22 and crown for teeth numbers 23 and 26 is correct.

FH# 7680680Y

DATED: Albany, New York
03/07/2018

NEW YORK STATE DEPARTMENT
OF HEALTH

By

Commissioner's Designee