STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: December 30, 2019
[redacted]
AGENCY: MAP
FH #: 8087998N

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 13, 2020, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

[redacted]

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

On Papers Only - Appearance waived by the Office of Administrative Hearings

ISSUES

Was the determination by the Appellant's Managed Long Term Care Plan to deny the Appellant's dentist's prior approval request for coverage for full mouth debridement 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 66, has been in receipt of Medical Assistance benefits provided through a Managed Long Term Care Plan, Centers Plan for Healthy Living (hereinafter "the Plan").

2. By Notice dated December 5, 2019, the Plan advised the Appellant of its intent to deny the Appellant's dentist's prior approval request for coverage for full mouth debridement for the Appellant on the grounds that the service requested was not covered according to New York State Medicaid guidelines.

3. On December 30, 2019, the Appellant requested this fair hearing.

APPLICABLE LAW

Section 358-5.9 of the Regulations provides 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.

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 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.

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 Program Dental Policy and Procedure Manual provides that dental care provided under the Medicaid Program includes only *essential services* (rather than "comprehensive" services).

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.

Services Not Within the Scope of the Medicaid Program

Dental implants and related services;

Fixed bridgework, except for cleft palate stabilization, or when a removable prosthesis would be contraindicated;

Immediate full or partial dentures;

Molar root canal therapy for beneficiaries 21 years of age and over, except when extraction would be medically contraindicated or the tooth is a critical abutment for an existing serviceable prosthesis provided by the NYS Medicaid program;

Crown lengthening;

Replacement of partial or full dentures prior to required time periods unless appropriately documented and justified as stated in the Manual;

Dental work for cosmetic reasons or because of the personal preference of the recipient or provider;

Periodontal surgery, except for procedure D4210 – gingivectomy or gingivoplasty, for the sole correction of severe hyperplasia or hypertrophy associated with drug therapy, hormonal disturbances or congenital defects;

Adult orthodontics, except in conjunction with, or as a result of, approved orthognathic surgery necessary in conjunction with an approved course of orthodontic treatment or the on-going treatment of clefts;

Placement of sealants for beneficiaries under 5 or over 15 years of age;

Improper usage of panoramic images (D0330) along with intraoral complete series of images (D0210).

Services Which Do Not Meet Existing Standards of Professional Practice

Partial dentures provided prior to completion of all Phase I restorative treatment which includes necessary extractions, removal of all decay and placement of permanent restorations;

Extraction of clinically sound teeth;

Teeth left untreated;

Treatment done without clinical indication. Procedures should not be performed without documentation of clinical necessity. Published "frequency limits" are general reference points on the anticipated frequency for that procedure. Actual frequency must be based on the clinical needs of the individual recipient;

Restorative treatment of teeth that have a hopeless prognosis and should be extracted;

Taking of unnecessary or excessive radiographic images;

DISCUSSION

The record establishes that the Appellant, age 66, has been in receipt of Medical Assistance benefits provided through a Managed Long Term Care Plan, Centers Plan for Healthy Living (hereinafter "the Plan"). By Notice dated December 5, 2019, the Plan advised the Appellant of its intent to deny the Appellant's dentist's prior approval request for coverage for full mouth debridement for the Appellant on the grounds that the service requested was not covered according to New York State Medicaid guidelines.

The Appellant failed to establish that the determination by the Plan to deny the Appellant's dentist's prior approval request for coverage for full mouth debridement for the Appellant is not correct. At the hearing, the Appellant testified that the Appellant's dentist told her that she needed a deep cleaning of her teeth but the Appellant could not afford the procedure out-of-pocket. However, the Agency attested that full mouth debridement is not a covered service under the New York State Medicaid guidelines. Furthermore, the Appellant failed to establish that the Appellant's dentist submitted sufficient evidence to the Plan to demonstrate that the Appellant qualified for a full mouth debridement. Based on the foregoing, the Appellant's

testimony is not sufficient to meet the Appellant's burden of proof to establish that the Plan erred in its determination. Therefore, the determination of the Plan to deny the Appellant's dentist's prior approval request for coverage for full mouth debridement for the Appellant must be sustained.

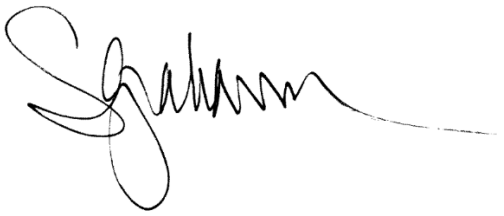
DECISION

The determination by the Appellant's Managed Long Term Care Plan to deny the Appellant's dentist's prior approval request for coverage for full mouth debridement for the Appellant was correct.

DATED: Albany, New York
02/21/2020

NEW YORK STATE DEPARTMENT
OF HEALTH

By



Commissioner's Designee