STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. B-05/14-360
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision by the Department of Vermont Health Access (DVHA) denying her Medicaid coverage for certain dental work. The issue is whether the services in question are considered "dental services" subject to an annual dollar-amount limit.

The following findings are not in dispute, and are based on the Department's written records and the petitioner's representations at a telephone hearing held on June 11, 2014.

FINDINGS OF FACT

1. At all times herein the petitioner has been a recipient of Medicaid.

2. In February 2014 the petitioner's dentist submitted a request for Medicaid coverage in the petitioner's behalf for dental services he had performed on February 13 and 24, 2014. The fee for the services totaled $510. The Department paid these claims on March 7 and 14, 2014 respectively.

3. At that time, the petitioner's dentist also referred her to an oral surgeon for consultation regarding possible dental surgery. The petitioner represents that her dentist did not inform her that she had already reached the annual limit of Medicaid coverage for dental services for the calendar year, and that she scheduled an appointment with the oral surgeon not knowing this.

4. The petitioner represents that when she arrived for her appointment with the oral surgeon she was informed by his office staff that the appointment was not covered by Medicaid, and that she would have to pay $90 in advance if she wanted to see the surgeon. The petitioner elected to pay the $90, and she saw the oral surgeon that day for a consultation.

5. The petitioner filed this appeal when the Department denied her subsequent request to reimburse her the $90. The petitioner maintains that she would not have scheduled the consultation with the oral surgeon in the first place if she had known it would not be covered by Medicaid. She admits, however, that she decided to go ahead with the consultation after being so informed because she had already traveled to the surgeon's office that day.

6. Written materials provided to all Medicaid recipients, which the petitioner admits she received, include a notice that dental services for adults "have a $$ (sic) limit each calendar year". The Department maintains that those limits fluctuate from year to year and that, therefore, its written informational materials do not include a more specific dollar amount of the annual limit.

7. Presently, effective January 1, 2014, the annual limit for Medicaid coverage for dental services is $510.

8. The Department maintains that as a general matter providers of dental services know, or should know, when their patients reach their annual limits of Medicaid coverage, and that they should timely inform their patients accordingly.

ORDER

The Department's decision is affirmed.

REASONS

"Dental services" for persons 21 and over are defined in state and federal regulations as "preventive, diagnostic, or corrective procedures involving the oral cavity and teeth". Such services are "optional" for states to provide under federal law (see 42 C.F.R. § 440.225). Included in Vermont's list of services covered under this category is "oral surgery

for tooth removal and abscess drainage. DVHA Rule No. 7313.3. However, as noted above, the Department's regulations specifically restrict Medicaid coverage for *all* dental services to a maximum of $510 a year per patient (as of January 1, 2014). Rule No. 7313.5.

In this case it cannot be concluded that the circumstances that led the petitioner to pay for the consultation with the oral surgeon out of pocket (which she did *after* she was informed, however belatedly, that she had reached her annual coverage limit under Medicaid) provide a sufficient basis under the regulations to require the Department to reimburse her for this expense. Accordingly, the Department's decision must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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