

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,283
) Fair Hearing No. 19,331
Appeal of)

INTRODUCTION

The petitioner appeals the decisions by the Department for Children and Families (DCF) denying her applications under VHAP (Fair Hearing No. 19,283) and General Assistance (GA) (Fair Hearing No. 19,331) for coverage of certain medical related items. The issues are whether any of these items are covered under either program and, if so, whether the petitioner has submitted sufficient verification of her medical need for them.

FINDINGS OF FACT

1. The petitioner is a recipient of VHAP medical insurance benefits and GA benefits that cover some of her basic needs. The petitioner is currently in the process of applying for SSI benefits on the basis of disability.¹

¹ At the hearing in this matter held on November 3, 2004 the petitioner was advised that she could also apply for Medicaid on the basis of disability, and that she would be entitled to a separate decision and appeal of any adverse decision under that program.

2. In September 2004 the petitioner was informed that VHAP would not cover the following items: a dentist bill of \$1,020 she had incurred for dentures, a "lux light" to relieve symptoms of Seasonal Affective Disorder (SAD), biweekly massage therapy, and chiropractic treatments.

3. Following her appeal of these decisions, on October 8, 2004 the petitioner also applied for, and was denied, GA for all of the above items, plus the following additional items: a bill for dental cleaning, a 20-hour-a-week caregiver, and an automatic portable wheelchair.

4. As of the date of the final hearing in these matters (November 3, 2004) the petitioner had not submitted any recent prescription or statement from her doctor regarding any of the requested items. The petitioner was advised that she could reapply under either program (or under Medicaid, if she is found eligible for that program) for coverage of any item if and when she obtained a prescription or statement from her doctor as to its medical necessity.

ORDER

The Department's decisions are affirmed.

REASONS

Under VHAP, virtually all covered medical services require a "referral" from the recipient's primary care provider. W.A.M. § 4003.1A. As noted above, there is no indication to date that any of the services for which the petitioner has requested coverage resulted from a specific referral from her doctor. As noted above, the petitioner has been advised that she can reapply for coverage if and when she obtains such a referral.

The above notwithstanding, the VHAP regulations are clear that some of the items requested by the petitioner are never covered under VHAP. Those items include any "dental service", including "dentures" (§§ 4005B[3][e] and 4000C[38])), and "massage therapy" (§ 4005C[9]). In addition, "lux lights" do not appear on the exclusive list of covered "medical equipment and supplies" (§ 4005B[5]). Items such as "home care" require a specific "treatment plan" from the patient's physician (§ 4000B[4]). And items such as wheelchairs and chiropractic treatments are subject to "quantity limits" (§§ 4005B[5]& [12]).

Under GA, coverage for any medical service or item is limited to treatment of an "emergency medical need", which is defined as follows:

An emergency medical need is defined as a need for a medical service or item attributable to a medical condition characterized by acute symptoms of sufficient severity, including but not limited to severe pain, such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of medical attention to result in the following:

- serious jeopardy to the health of the participant;
- serious impairment to bodily functions; or
- serious dysfunction of the bodily organ or part.

Prior to using a vendor authorization for covered physician services, vision services and items, medical supplies, durable medical equipment, or ambulance services, eligibility workers shall obtain a determination from the Office of Vermont Health Access (OVHA) that such services or items address an emergency medical need (as defined in subsection A or B) or addressed such a need at the time the services or items were provided.

As noted above, the petitioner has been advised that she can reapply for any service under VHAP or GA if and when she obtains a prescription or statement from her doctor that addresses medical need. To date, however, in the absence of such a showing, the Department's decisions denying coverage for the requested items must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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