

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of	)	
	)	
M C	)	OAH No. 18-1255 MDX
<hr style="width: 40%; margin-left: 0;"/>	)	Agency No.

**DECISION**

**I. Introduction**

M C was denied dental authorization after she exceeded the Medicaid cap on the costs for dental services within a fiscal year.<sup>1</sup> There were no factual disputes in this case. However, Ms. C appealed and asked for an exception to the cap. Because Ms. C’s dental costs exceeded the cap, and no legal exceptions exist allowing her to exceed the cap, the Division’s decision is affirmed.<sup>2</sup>

**II. Facts<sup>3</sup>**

Ms. C, a Medicaid recipient, is a 69-year-old woman. She described incurring multiple falls over 2018 and before, as a result of the sleeping disorder narcolepsy. She has a multitude of diagnosis which include, but are not limited to, osteonecrosis, a bone disease caused by reduced blood flow to bones in the joints, Temporomandibular Joint Disorder (TMJ), a condition that affects the muscles and nerves of the temporomandibular joint, ataxia, a loss of the ability to coordinate muscular movement, and breast cancer.<sup>4</sup> As a result of multiple falls and her poor health, Ms. C incurred multiple injuries to her face and mouth. These falls caused her to break multiple teeth, and on, September 6, 2018, she ultimately had 17 teeth removed.<sup>5</sup>

For the fiscal year of 7/1/18 to 6/20/19, and prior to the submission of the request for payments that are subject of this matter, the Division made 11 payments for Ms. C’s dental services.<sup>6</sup>

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<sup>1</sup> This term is a bit misleading. As explained during the hearing, Ms. C already received the services, so Ms. C is actually requesting authorization for her dentist to be paid for the costs incurred for the services he already provided.

<sup>2</sup> A fair hearing was requested and held on January 9, 2019. Laura Baldwin, a Medical Assistant Administrator employed by the Department of Health and Social Services, represented the Division of Health Care Services (Division) by phone. Ms. Baldwin called Mary Hansen, a Dental Program Manager for the Division, as a witness. She too appeared telephonically. Ms. C testified by phone as well but presented no other witnesses. The Division’s Exhibits A-F were admitted without objection, as was Ms. C’s Exhibit 1.

<sup>3</sup> The facts are based on the record, testimony and are undisputed.

<sup>4</sup> Exhibit 1.

<sup>5</sup> Exhibit 1; Ms. C testimony.

<sup>6</sup> Exhibit F at 6; Ms. C did not dispute that she had exceeded the annual cap.

July 24, 2018	amount paid	\$154.92
July 24, 2018	amount paid	\$44.89
August 2, 2018	amount paid	\$265.14
August 2, 2018	amount paid	\$-265.14
August 2, 2018	amount paid	\$231.29
August 25, 2018	amount paid	\$65.15
September 5, 2018	amount paid	\$65.15
September 6, 2018	amount paid	\$5295.62
September 6, 2018	amount paid	\$974.62
October 3, 2018	amount paid	\$65.15
October 5, 2018	amount paid	\$801.47

On September 6, 2018, Ms. C had four alveoplasties, which is the process of extracting teeth, and a surgical reduction of the osseous tuberosity, which is the process of smoothing protruding bone.<sup>7</sup> On October 12, 2018, Dr. X with Business A Oral Surgery, Ms. C’s dentist, submitted 2 separate requests for reimbursement for the procedures he performed on September 6, 2018.<sup>8</sup>

On November 11 and November 27, 2018, the Division denied payment for both requests. The four alveoplasties were denied as not medically necessary. However, after further review of documents provided by Ms. C in Exhibit 1, the Division concluded the alveoplasties were medically necessary, so that bill was paid.

Payment for the surgical reduction of the osseous tuberosity was denied, because it was a procedure that was determined to not be medically necessary and subject to the Medicaid cap of \$1,150.<sup>9</sup> And, at the time of the request, Ms. C had exceeded the cap for the fiscal year of 7/1/18 through 6/30/19.<sup>10</sup>

### III. Discussion

Medicaid coverage for dental services is governed by a strict set of statutes and regulations.<sup>11</sup> The Division pays for dental services, without an annual cap, when those dental services are deemed medically necessary because it provides for “immediate relief of

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<sup>7</sup> Exhibits E at 1- 2; Testimony Ms. Hansen.

<sup>8</sup> Exhibit D at 1-2; Exhibit E at 1-2; Ms. Hansen.

<sup>9</sup> Exhibit E at 1-2.

<sup>10</sup> Exhibit F at 6.

<sup>11</sup> AS 47.07.067; 7 AAC 105.100; 7 AAC 105.110; 7 AAC 110.145.

pain or acute infection including diagnostic examinations, radiographs, anesthesia, and sedation necessary for emergency dental care.”<sup>12</sup>

With limited exceptions that are not applicable here, the regulations set forth an annual financial cap for other types of dental services. The Division “will pay, up to an annual limit of \$1,150 per recipient 21 years of age or older” for services that are for diagnosis, restorative and preventative services.<sup>13</sup>

Ms. C’s dentist submitted bills for dental procedures that he performed.<sup>14</sup> Dental procedures are categorized as either medically necessary, or as diagnostic, restorative and preventative.<sup>15</sup> Those that are medically necessary are not subject to an annual cap; those that are categorized as a “diagnostic, restorative, or preventative service,” are subject to the cap.<sup>16</sup>

The surgical reduction of the osseous tuberosity procedure was not categorized as medically necessary.<sup>17</sup> Ms. Hansen’s testimony that it was denied because it was a preventative and exceeded the cap was unrefuted. There was no evidence presented that surgical reduction of the osseous tuberosity that Ms. C’s dentist performed should have been characterized as a medical necessity.<sup>18</sup> So, the surgical reduction of the osseous tuberosity procedure was subject to the annual cap. And, as set forth above, Ms. C had exceeded her annual cap for diagnostic, restorative, or preventative services for the 2018-2019 fiscal year at the time the bill for the surgical reduction of the osseous tuberosity was submitted.<sup>19</sup>

Ms. C testified she asked for the hearing because she was looking for an exception to the cap since she could not afford to pay what was not covered by Medicaid and she wanted her dentist compensated because of the relief he provided her.<sup>20</sup> However, there is no legal exception to the cap.<sup>21</sup> And because it was undisputed the service was subject to the cap, and the cap was reached prior to the submission of the billing for the surgical reduction of the osseous tuberosity, reimbursement for the osseous tuberosity is not permitted.

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<sup>12</sup> 7 AAC 105.100 (5); 7 AAC 110.145.

<sup>13</sup> 7 AAC 110.145.

<sup>14</sup> Exhibit E at 1-2,

<sup>15</sup> Ms. Hansen testimony.

<sup>16</sup> Ms. Hansen testimony; 7 AAC 110.145(a) and (b); Exhibit F at 6.

<sup>17</sup> Ms. Hansen testimony.

<sup>18</sup> 7 AAC 105.100 (5); 7 AAC 110.145.

<sup>19</sup> Exhibit F at 6.

<sup>20</sup> Ms. C testimony.

<sup>21</sup> Ms. C testimony.

**IV. Conclusion**

Ms. C exceeded the annual cap for 7/1/18 to 6/20/19, and there are no legal exceptions that would allow payment once the cap was exceeded for the fiscal year.

The Divisions denial is affirmed.

Dated: February 4, 2019

Signed  
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Hanna Sebold  
Administrative Law Judge

**Adoption**

The undersigned, on behalf of the Commissioner of Health and Social Services and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. 602(a)(2) within 30 days after the date of this decision.

DATED this 20<sup>th</sup> day of February, 2019.

By: Signed  
\_\_\_\_\_  
Signature  
Hanna Sebold  
\_\_\_\_\_  
Name  
Administrative Law Judge  
\_\_\_\_\_  
Title

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