

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2009-16645 PA

Case No. ██████████

Load No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ represented the Appellant. ██████████, represented the Department. ██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for prior authorization for upper and lower partial dentures?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a Medicaid beneficiary.
2. On ██████████, the Appellant requested prior authorization for upper and lower partial dentures, through her dentist.
3. The Appellant had last received both upper and lower partial dentures on ██████████.

4. On ██████████, the Department denied the prior authorization request. The Department indicated that the Appellant had been provided the service within the last five years.
5. On ██████████, the Department received Appellant's Request for a hearing.

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

The issue in this case is whether the Department properly applied the five year rule for denture coverage. During the hearing, the Appellant stated that she cannot eat due to pain caused by ill fitting dentures. She has lost additional teeth since she was provided the partials 4 years ago. *MDCH Medicaid Provider Manual, Dental Section, January 1, 2006, pages 16 and 17*, outlines coverage for partial dentures:

Complete or partial dentures are not authorized when:

A previous denture has been provided within five years, whether or not the existing denture was obtained through Medicaid.

An adjustment, reline, repair, or duplication will make it serviceable.

Replacement of a complete or partial denture that has been lost or broken beyond repair is not a benefit within five years, whether or not the existing denture was obtained through Medicaid.

Exhibit 1, Pages 8 and 9

The Department introduced evidence that Appellant had both an upper partial denture and a lower partial denture provided within the past five years and therefore the authorization request was not approved in accordance with the policy outlined in the Dental Section of the Department's Medicaid Provider Manual. The witness pointed to Department records evidencing payment for the dentures in ██████████.

The Appellant's representative testified she needs new upper and lower partial dentures because she has chewing problems. Furthermore, she suffers periodontal disease. She

asserts the five year time period cannot apply to the Appellant due to her needs.

While this ALJ is sympathetic to Appellant's predicament, the Department policy does not authorize an exception to the five year rule. The uncontested Department records indicate the Appellant has had dentures issued within the last 5 years. No evidence of a policy exception was evidenced or found by this ALJ. This Administrative Law Judge does not possess equitable powers and must adhere to Department policy and state law.

The Department provided sufficient evidence that its denial was in accord with Policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department properly denied Appellant's request for prior authorization for both upper and lower partial dentures.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Jennifer Isiogui
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 5/1/2009

***** NOTICE *****

The State Office of Administrative Hearings and Rules for the Department of Community Health may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules for the Department of Community Health will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

[REDACTED]