

**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. 2010-13808 PA
Case ██████████**

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 ██████████. ██████████ appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly process the Appellant's request for prior authorization for an upper partial denture?

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 Department received a prior authorization request for an upper partial denture from the Appellant's dentist. (Exhibit 1, page 6)
3. Effective July 1, 2009, Executive Order 2009-22 limited the coverage for dental services for beneficiaries age 21 and older to a few specified emergent/urgent services for the relief of pain and or infection. However, prior authorization requests received on or before ██████████, would be processed. (Medicaid Provider Manual, Dental Section, January 1, 2010, page i)

4. On ██████████, the Department reviewed the Appellant's ██████████, prior authorization request and determined no action would be taken because additional information was necessary to process the request, which by this time could not be received prior to the ██████████, deadline imposed by Executive Order 2009-22. (Exhibit 1, page 6 and Testimony)
5. The Department testified that it is likely no notice was sent to the Appellant regarding the no action determination made on her ██████████, prior authorization request. A copy of the prior authorization request with a sticker indicating there was an active treatment plan with a different provider was sent to the dentist who submitted this request on behalf of the Appellant. (Exhibit 1, page 6 and Testimony)
6. On ██████████, the Department received the Appellant's Request for a hearing. (Exhibit 1, pages 3-4)

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.

1.10 PRIOR AUTHORIZATION

Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services.

*MDCH Medicaid Provider Manual, Practitioner
Section, October 1, 2009, page 4.*

The issue in this case is whether the Department properly processed the Appellant's request for prior authorization. The *MDCH Medicaid Provider Manual, Dental Section, January 1, 2010, page i*, outlines the changes to the dental program due to Executive Order 2009-22:

DENTAL

As required by Executive Order 2009-22, effective for dates of service on and after 07/01/2009, coverage of dental services for beneficiaries age 21 and older is limited to the following emergent/urgent services for the relief of pain and/or infection.

Docket No. 2010-13808 PA
Decision & Order

Procedure Code Short Description
D0140 Limited oral evaluation-problem focused
D0220 Intraoral, periapical, first film
D0230 Intraoral, periapical, each additional film
D7140 Extraction, erupted tooth or exposed root
D7210 Extraction of tooth, erupted
D7220 Extraction of tooth, soft tissue impaction
D7230 Extraction of tooth, partial bony impaction
D7240 Extraction of tooth, complete bony impaction
D7260 Oroantral fistula closure
D7261 Primary closure of a sinus perforation
D7510 Incision and Drainage (intraoral soft tissue)
D9999 Unspecified, adjunctive procedure, by report

Only these services are covered for beneficiaries age 21 and older (including nursing facility residents) unless a beneficiary has a prior authorization on file on or before 06/30/2009. Only prior authorization requests received on or before 06/30/09 will be processed. (per bulletin MSA 09-28)

The Appellant's prior authorization request for upper partial denture was submitted on [REDACTED] (Exhibit 1, page 6) The Department reviewed the Appellant's request until [REDACTED]. (Exhibit 1, page 6) The Department witness testified that "no action" was taken on the request because additional information would have been needed and it was past the [REDACTED], deadline to submit prior authorization requests imposed by Executive Order 2009-22. Specifically, the Department testified they would have needed:

- 1) a letter from the Appellant requesting a withdrawal of the a complete upper and lower denture prior authorization request submitted by a different dental provider that was approved by the Department on December 5, 2008, and
- 2) additional information from this dental provider relating to the health of the Appellant's remaining teeth.

The Department witness explained that when additional information is requested and received it is considered a new prior authorization request with the date the additional information is received. The Department witness testified that the needed information was never requested from the Appellant of her dental provider because it was already past the [REDACTED] deadline when the Department reviewed the request.

There is no support in policy for the Department's position that additional information could not be submitted after the deadline or that a prior authorization request loses the original submission date when new information is received. This ALJ does understand that the Department received an overwhelming number of prior authorization requests in

Docket No. 2010-13808 PA
Decision & Order

a short period of time due to the deadline imposed by Executive Order 2009-22. Accordingly, it took time for the Department to review each request. However, the Appellant can not be penalized for the time it took the Department to review these requests. Her prior authorization request was received by the Department on [REDACTED], [REDACTED]. Medicaid policy states that all requests received on or prior to [REDACTED], will be processed. This would include allowing the submission of any additional information necessary to process the prior authorization request.

The Department's taking "no action" on the Appellant's [REDACTED], prior authorization request was effectively an improper denial of the request. Further, based on the testimony of the Department witness, the Department failed to provide any notice to the Appellant of the action taken on her prior authorization request. The request was submitted prior to the [REDACTED] deadline, therefore the Department should have processed the request, including allowing time for the submission of any needed additional information.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department failed to properly process the Appellant's [REDACTED] request for prior authorization for an upper partial denture.

IT IS THEREFORE ORDERED that:

The Department's decision is REVERSED. The Department shall re-process the Appellant's [REDACTED], prior authorization request for an upper partial denture, allowing the appellant and her dental provider the opportunity to submit any additional information necessary to process the request.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 3/2/2010

Docket No. 2010-13808 PA
Decision & Order

***** NOTICE *****

The State Office of Administrative Hearings and Rules 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 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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.