STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

Docket No. 2010-41159 MSB
Case No. [redacted]

[redacted]

Appellant
_____/

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. [redacted], appeared on behalf of the Appellant. [redacted], represented the Department of Community Health (MDCH or Department). [redacted], appeared as a witness for the Department.

ISSUE

Did the Department properly reject Appellant's claim for reimbursement of his son's anesthesia costs related to dental work?

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 was a Medicaid beneficiary on [redacted].
2. The Appellant was also a Medicare beneficiary on [redacted].
3. The Appellant is a [redacted] male who is severely multiply impaired, including a heart condition and mental retardation.
4. The Appellant's lives with his father, who is also his paid Home Help Services provider. (Exhibit 1, page 4).
5. In order for Appellant to receive dental work, sedation anesthesia must be used. (Exhibit 1, page 4).

6. On or around [redacted], the Appellant indicated he had dental pain. (Exhibit 1, page 4).

7. On [redacted], the Appellant received dental work and anesthesia services were employed during that dental work. At the time the Appellant received his dental work under anesthesia Appellant's father was aware neither the dentist nor the anesthesiologist accepted Medicaid. (Exhibit 1, page 4).

8. [redacted], the anesthesiologist billed to the Appellant [redacted] for the oral surgery sedation. (Exhibit 1, page 6).

9. On or after [redacted], the Appellant's father submitted a bill to Medicaid to reimburse him the [redacted]. (Exhibit 1, page 6).

10. On [redacted], Medicaid rejected the Appellant's claim because neither the dentist, the anesthesiologist, nor the Appellant's father were enrolled Medicaid medical services providers.

11. On [redacted], the State Office of Administrative Hearings and Rules for the Department of Community Health received a copy of the Appellant's request for hearing. (Exhibit 1, pages 3-5).

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.

There is no dispute between the parties that as of July 1, 2009, Michigan Medicaid policy limited dental coverage for beneficiaries over the age of 21 to emergent/urgent services. In this case, the reimbursement issue involved anesthesia services that were provided during dental care.

Appellant's father testified that his son is severely, multiply impaired and has a heart condition that requires him to undergo monitored anesthesia in order to have a dental examination. Appellant's father explained that Appellant complained about soreness on the right side of his mouth and as Appellant's guardian sought a Medicaid enrolled dentist and anesthesiologist to perform a dental examination regarding the cause of the mouth soreness. The Appellant's father testified there were no Medicaid providers he could find that were available to provide services to a severely, multiply disabled person, so he used a dentist and an anesthesiologist who did not participate with Medicaid. The Appellant's father asserted that he should get reimbursed for the anesthesia bill and there was a mechanism to pay him because he was a Medicaid home help provider.

The Department's witness testified that Medicaid rejected the claim from Appellant's father because neither the dentist nor the anesthesiologist were Medicaid enrolled providers. The Department's witness explained that Michigan Medicaid does not allow payments for medical services to any individual other than a Medicaid enrolled medical services provider. Although the Appellant's father is an enrolled home help provider, a Home Help Services provider is distinct from a Medicaid enrolled medical services provider.

Michigan's Medicaid policy clarifies that a beneficiary can be directly billed by a provider if the beneficiary knew the provider was not a Medicaid enrolled medical service provider at the time the services were rendered:

> Providers cannot bill beneficiaries for services except in the following situations:
>
> - A co-payment for chiropractic, dental, hearing aid, pharmacy, podiatric, or vision services is required. However, a provider cannot refuse to render service if the beneficiary is unable to pay the required co-payment on the date of service.
> - A monthly patient-pay amount for inpatient hospital or nursing facility services. The local DHS determines the patient-pay amount. Non-covered services can be purchased by offsetting the nursing facility beneficiary's patient-pay amount. (Refer to the Nursing Facility Chapter for more information.)
> - For nursing facility (NF), state-owned and -operated facilities or CMHSP-operated facilities determine a financial liability or ability-to-pay amount separate from the DHS patient-pay amount. The state-owned and -operated facilities or CMHSP-operated facilities liability may be an individual, spouse, or parental responsibility. This responsibility is determined at initiation of services and is reviewed periodically. The beneficiary or his authorized representative is responsible for the state-owned and -operated facilities or CMHSP ability to pay amount, even if the patient-pay amount is greater.
> - The provider has been notified by DHS that the beneficiary has an obligation to pay for part of, or all of, a service because services were applied to the beneficiary's Medicaid deductible amount.
> - If the beneficiary is enrolled in a MHP and the health plan did not authorize a service, and the beneficiary had prior knowledge that he was liable for the service. (It is the provider's responsibility to determine eligibility/enrollment status of each beneficiary at the time of treatment and to obtain the appropriate authorization for payment. Failure of the provider to obtain authorization does not create a payment liability for the beneficiary.)
> - **Medicaid does not cover the service. If the beneficiary requests a service not covered by Medicaid, the provider**

> **may charge the beneficiary for the service if the beneficiary has been told prior to rendering the service that it was not covered by Medicaid. If the beneficiary is not informed of Medicaid non-coverage until after the services have been rendered; the provider cannot bill the beneficiary.**
> - The beneficiary refuses Medicare Part A or B.
> - Beneficiaries may be billed the amount other insurance paid to the policyholder if the beneficiary is the policyholder.
> - The beneficiary is the policyholder of the other insurance and the beneficiary did not follow the rules of the other insurance (e.g., utilizing network providers).
> - **The provider chooses not to accept the beneficiary as a Medicaid beneficiary and the beneficiary had prior knowledge of the situation. The beneficiary is responsible for payment.**
>
> *Medicaid Provider Manual, General Information for Providers Section, July 1, 2010, Page 21*

All claims must be submitted in accordance with the policies, rules, and procedures as stated in the Medicaid Provider Manual. The evidence in this case demonstrates that the Appellant's father knew that the dentist and anesthesiologist did not participate in the Medicaid program and that dental services did not exist for Appellant in [redacted], and therefore Medicaid cannot pay the dentist and anesthesiologist for the [redacted] services. While this administrative law judge understands the Appellant's father's concern about getting dental care for his son and the difficulty in obtaining Medicaid covered dental services for the severely multiply impaired adult, administrative law does not possess the equitable jurisdiction to order Medicaid to pay for a service that is not covered.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly rejected Appellant's claim for reimbursement of his son's anesthesia costs related to dental work.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

[redacted]
Docket No. 2010-41159 MSB
Decision and Order

cc: [redacted]

Date Mailed: __9/3/2010__

***** 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.