STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

[redacted]

Appellant

_____/

Docket No. 2010-54645 QHP
[redacted]

DECISION AND ORDER

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

After due notice, a hearing was held on [redacted]. The Appellant, [redacted], appeared on her own behalf. [redacted] was represented by [redacted], Appeals Coordinator. [redacted], Medical Director, appeared as a witness for [redacted]. [redacted] is a Michigan Department of Community Health (MDCH) contracted Medicaid Health Plan (MHP).

ISSUE

Did the MHP properly deny the Appellant's request for a facial prosthesis?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary, who is currently enrolled in [redacted], a MHP.

2. The Appellant has been diagnosed with TMJ and suffers from jaw pain, limited mouth opening, and headaches. (Exhibit 1, page 7)

3. The MHP received a [redacted], prior-authorization request for a facial prosthesis. (Exhibit 1, pages 5-9)

4. On [redacted], the MHP sent the Appellant a denial letter stating that the request for a facial prosthesis was not authorized because dental

services to treat TMJ are not a covered benefit per the MDCH Medicaid Provider Manual. (Exhibit 1, page 4)

5. The Appellant appealed the denial on [redacted].

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.

On May 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans.

The Respondent is one of those Medicaid Health Plans.

> The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. The Contractor must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 2.024.
>
> *Section 1.022(E)(1), Covered Services.*
> *MDCH contract (Contract) with the Medicaid Health Plans,*
> *October 1, 2009.*

> (1) The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:
>
> (a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.

(b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.

(c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.

(d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.

(e) The UM activities of the Contractor must be integrated with the Contractor's QAPI program.

(2) Prior Approval Policy and Procedure

The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

Section 1.022(AA)(1) and (2), Utilization Management, Contract, October 1, 2009.

As stated in the contract language above, MHP coverages and limitations must be consistent with Medicaid policy. The Medicaid Provider Manual states, in pertinent part, as follows:

Section 7 – Noncovered Services

The following dental services are excluded from Medicaid coverage:

- Orthodontics, unless there is a CSHCS qualifying diagnosis
- Gold Crowns, Gold Foil Restorations, Inlay/Outlay restorations
- Fixed Bridges
- Bite Splints, Mouthguards, sports appliances

- **TMJ Services**
- Services or Surgeries that are experimental in nature
- Dental Devices not approved by the FDA
- Analgesia, Inhalation of Nitrous Oxide

MDCH Medicaid Provider Manual
Dental Section, July 1, 2010, Page 21
(Emphasis Added)

The MHP's Medical Director testified that the prior-authorization request was made for a facial prosthesis to treat TMJ. He further testified that the request was denied because Medicaid policy does not allow for coverage of TMJ services.

The Appellant disagrees with the denial of the facial prosthesis. She stated that her condition is a medical condition—osteoporosis—not a dental condition. She further stated that she is in severe pain and that pain medications and physical therapy have not helped. The pain keeps her up all night and gives her migraine headaches, and she is unable to fully open her mouth.

While this Administrative Law Judge sympathizes with the Appellant's circumstances, the MHP's prior-approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. Medicaid policy indicates that TMJ services are not covered. Therefore, the MHP's denial must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied the Appellant's request for a facial prosthesis based on the available information.

IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

_____
Kristin M. Heyse
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 11/16/2010

***** 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.