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

[redacted],

Appellant

_____/

Docket No. 2010-7823 PA
Case No. [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.,* upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. [redacted] appeared on his own behalf. [redacted], Appeals Review Officer, represented the Department. [redacted], Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's request for prior authorization for upper complete 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 [redacted], the Department received a prior authorization request for upper complete and lower partial dentures from the Appellant's dentist. (Exhibit 1, page 8)

3. The payment history indicated an upper partial denture was previously placed on [redacted]. (Exhibit 1, page 11)

4. On [redacted], the Department denied the request for upper complete and lower partial dentures. The Department determined that the Appellant did not qualify for the upper complete denture under the 5 year rule. The

Department also determined that the Appellant did not qualify for the lower partial denture because he would have 12 posterior teeth in occlusion counting modifications that should have been made to the upper partial denture placed in 2007. (Testimony and Exhibit 1, page 8)

5. The Department sent the Appellant a Notification of Denial on [redacted]. (Exhibit 1, pages 6-7)

6. On [redacted] the Department received the Appellant's Request for a hearing. (Exhibit 1, pages 4-5)

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.

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, 2005, page 4.*

The issue in this case is whether the Department properly denied Appellant's request for prior authorization. The *MDCH Medicaid Provider Manual, Dental Section, July 1, 2009, pages 17-19,* outlines coverage for dentures:

6.6 PROSTHODONTICS (REMOVABLE)

6.6.A. GENERAL INSTRUCTIONS

> Complete and partial dentures are benefits for all beneficiaries. All dentures require PA.
>
> Providers must assess the beneficiary's general oral health and provide a five-year prognosis for the prosthesis requested. An upper partial denture PA request must also include the prognosis of six sound teeth.

Complete or partial dentures are authorized:

- If there is one or more anterior teeth missing;
- If there are less than eight posterior teeth in occlusion (fixed bridges and dentures are to be considered occluding teeth); or
- Where an existing complete or partial denture cannot be made serviceable through repair, relining, adjustment, or duplicating (rebasing) procedures.

If a partial denture can be made serviceable, the dentist should provide the needed restorations to maintain use of the existing partial, extract teeth, add teeth to an existing partial, and remove hyperplastic tissue.

Before final impressions are taken and any construction begun on a complete or partial denture, healing adequate to support a prosthesis must take place following the completion of extractions or surgical procedures. This includes the posterior ridges of any immediate denture. An exception is made for the six anterior teeth (cuspid to cuspid) only when an immediate denture is authorized.

Reimbursement for a complete or partial denture includes all necessary adjustments, relines, repairs, and duplications within six months of insertion. This includes such services for an immediate upper denture when authorized.

If a complete or partial denture requires an adjustment, reline, repair, or duplication within six months of insertion, but the services were not provided until after six months of insertion, no additional reimbursement is allowed for these services.

Complete or partial dentures are not authorized when:

- A previous prosthesis has been provided within five years, whether or not the existing denture was obtained through Medicaid.
- An adjustment, reline, repair, or duplication will make them 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.

6.6.B. COMPLETE DENTURES

Only complete dentures with noncharacterized teeth (i.e., without cosmetic enhancements, such as gold denture teeth) and acrylic resin bases are a benefit of Medicaid. To be covered by Medicaid, all of the following procedures must be used to fabricate the dentures:

- Individual positioning of the teeth;
- Waxup of the entire denture body; and
- Conventional laboratory processing.

A preformed denture with teeth already mounted (i.e., teeth already set in acrylic prior to initial impressions) forming a denture module is not a covered benefit. Overdentures or Cusil dentures are not a covered benefit.

6.6.C. IMMEDIATE COMPLETE DENTURE

An immediate complete denture is a benefit only when the immediate extractions involve only the anterior teeth, whether maxillary or mandibular. When requesting PA, the dentist must state on the request that the denture will be an immediate denture, which teeth will be extracted at the denture insertion visit, and the reason the immediate denture is needed.

For reasons of denture stability and retention, an immediate denture is not a benefit:

- For the posterior segments of the maxillary or mandibular arch.
- Where cast metal base saddle areas are to be provided.

6.6.D. PARTIAL DENTURE

Partial dentures are a covered benefit for all beneficiaries over age 16 with the following limitations:

- A one-piece cast metal partial denture is not a benefit.
- Elaborate appliance items, such as semi-precision or precision attachments, stress breakers, hinge saddle areas, or Kennedy (lingual) blankets are not benefits.

All clasps are included in the fee for the partial denture.

To ensure that eruption of the teeth is completed before a permanent appliance is placed, partial dentures are not a covered benefit for beneficiaries under age 16. To replace a lost anterior tooth on a patient under age 16, PA must be submitted for an interim partial denture.

6.6.E. INTERIM COMPLETE & PARTIAL DENTURES

Interim complete dentures are authorized only in very unusual situations. For beneficiaries under the age of 16, interim partial dentures (sometimes called a "stayplate") to replace anterior teeth are authorized. The provider must submit justification and explanation of proposed future treatment with the PA request.

Medicaid Provider Manual, Dental Section,
Version date July 1, 2009.

The Department introduced the Appellant's Medicaid beneficiary payment history into evidence showing that an upper denture was placed [redacted]. (Exhibit 1, page 11) The information submitted by the Appellant's dentist for the prior authorization of upper partial that was placed in [redacted] indicated that the Appellant understood the 5 year rule and had a good 5 year prognosis. (Exhibit 1, pages 9-10) The Department testified that the current prior authorization request for the upper complete denture was denied because the Appellant had an upper prosthesis provided within the past five years, in accordance with the policy outlined in the Dental Section of the Department's Medicaid Provider Manual.

The Appellant testified that the five year rule was not explained to him in [redacted], and that a medication he was taking caused his dental problems and tooth loss. The Appellant explained that he would not have agreed to have the partial placed in [redacted] if he had known coverage would then be denied coverage for a complete upper denture when more teeth were lost a few years later. The Appellant stated if he had known about the 5 year rule he would have waited to have an upper prosthesis placed.

While this ALJ has sympathy for the Appellant's circumstances, Department policy in this area is clear. The program parameters do not allow for coverage for a dental prosthetic more than 1 time in a 5 year period. The Department provided sufficient evidence that the denial of the upper complete denture was in accordance with policy as an upper partial denture was placed within the past 5 years.

The denial of the lower partial denture is also at issue in this case. The Department testified that the Appellant would have 12 posterior teeth in occlusion, counting teeth that should have been included with a modification to the [redacted] upper partial denture. The Department explained that under the above cited Medicaid policy, fixed

bridges and dentures are to be considered occluding teeth. The Department further stated that Medicaid policy required the Appellant's dentist to perform any necessary modifications to the upper partial within six months of placement.

The upper partial denture placed on [redacted] would have included teeth 2, 7, 8, 9, 10, 11, and 12. (Exhibit 1, page 9) The beneficiary payment history shows that on [redacted], the Appellant had teeth 4, 5, 14, and 15 extracted. (Exhibit 1, page 11) The Department testified that since these teeth were pulled within 6 months of the placement of the upper partial denture, by one day, the Appellant's dentist was responsible for making the necessary adjustments to the existing upper partial denture at that time. The Department testified they assumed these teeth had been added to the upper partial placed [redacted]. Therefore, when counting the posterior teeth in occlusion for the [redacted] lower partial request, the Department included teeth 4 and 5. (Exhibit 1, page 8)

The Appellant testified that his dentist never added teeth to the partial that was placed in [redacted]. Additionally, the beneficiary payment history does not indicate the dentist was reimbursed for adding any teeth to the [redacted] upper partial denture. (Exhibit 1, page 11)

The Department erred by counting teeth 4 and 5 as posterior teeth in occlusion for the [redacted], prior authorization request for a lower partial denture. The evidence does not support the Department's assumption that these teeth were in fact added to the April [redacted] upper partial denture. However, even if teeth 4 and 5 are not counted, the available information indicates that the Appellant will still have 8 posterior teeth in occlusion. Specifically teeth 2 and 31, 3 and 30, 12 and 21, as well as 13 and 20 will be in occlusion. (Exhibit 1, page 8) In accordance with the Department's policy, the lower partial denture was not authorized because the Appellant will have at least eight teeth in occlusion.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

[redacted]
Docket No. 2010-7823 PA
Decision and Order

cc: [redacted]

Date Mailed: 2/8/2010

***** 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.