

**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. 2010-31860 PA

Case No. [REDACTED]

[REDACTED],

Appellant

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], Appellant, appeared on her own behalf. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Medicaid Utilization Analyst, Dental Division, appeared as a witness for the Department.

ISSUE

Can the Department approve Appellant's request for prior authorization after July 1, 2009?

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 or before [REDACTED], the Department received a faxed prior authorization request for an upper partial denture from the Appellant's dentist. (Exhibit 1, page 4 and Testimony)
3. Effective [REDACTED], 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 [REDACTED], would be processed. (Medicaid Bulletin MSA 09-28, [REDACTED]; Exhibit 1, pages 7-11)
4. On [REDACTED], the Department approved the Appellant's [REDACTED] prior authorization request for four teeth to be extracted. The authorization approval was valid for 180: until [REDACTED]. (Exhibit 1, page 5)

Case Name: [REDACTED]
Docket No. 2010-31860 PA
Decision & Order

5. In approximately [REDACTED], Appellant's dentist pulled five of her front teeth in anticipation of a partial plate. (Exhibit 1, page 3, Appellant's testimony) After healing from the pulled teeth the Appellant returned to the dentist for the partial, but her dentist said it was too late for the procedure to be covered by Medicaid because the Medicaid dental program no longer existed and the 180 day authorization had expired. (Exhibit 1, page 3, Appellant's testimony)
6. On [REDACTED], the Department received the Appellant's Request for a hearing. (Exhibit 1, page 3)

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 Department approve Appellant's request for prior authorization after [REDACTED]. The Medicaid Bulletin MSA 09-28, June 1, 2010, 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.

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

Case Name: [REDACTED]
Docket No. 2010-31860 PA
Decision & Order

D7220 Extraction of tooth, soft tissue impaction
D7230 Extraction of tooth, partial bony impaction
D7240 Extraction of tooth, partial 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. (Exhibit 1, pages 7-11)

The Appellant's prior authorization request for a partial upper denture was submitted on or before [REDACTED]. (Exhibit 1, page 4 and Testimony) The Department reviewed the Appellant's request and approved the extraction of four teeth; the authorization valid for 180 days: from [REDACTED] until [REDACTED]. (Exhibit 1, page 5 and Testimony) The Department Analyst testified that although the Appellant's teeth may have been extracted within the 180 days, the partial upper denture was not completed by [REDACTED], and because the dental program no longer covers denture services, if Appellant's dentist were to request prior authorization it could not be authorized.

A review of the Executive Order 2009-22 and the Department's bulletin issued in response, demonstrates that the Department would be prohibited from authorizing Medicaid coverage for Appellant's denture after January 5, 2010.

The Dental section of the Medicaid Provider Manual, in pertinent part:

2.4 APPROVED PRIOR AUTHORIZATION REQUESTS

While a beneficiary is eligible, all treatment authorized must be completed within 180 days from the date of authorization. If treatment is not completed within the 180 days, the PA request must be updated before continuing treatment. The provider has 15 days prior to the end of the prior authorization period to request an extension.

*MDCH Medicaid Provider Manual, Dental Section 2.4,
January 1, 2010, page 4.*

The Appellant testified that she called her dentist, [REDACTED], many times but her dentist never returned her call about whether her prior authorization request had been approved until [REDACTED] or [REDACTED]. The Appellant testified that if she

Case Name: [REDACTED]
Docket No. 2010-31860 PA
Decision & Order

had known her dentist would not provide her with an upper partial before the authorization expired, she never would have allowed her dentist to remove her front teeth because now she has no front teeth.

It is noted that the Appellant's dentist began work on a prior authorization request that was approved in [REDACTED] but did not finish within 180 days. While this Administrative Law Judge has no equitable jurisdiction to order Appellant's dentist to provide some type of partial denture it was discussed with the Appellant that she pursue the prior authorization and upper partial denture issue with her Appellant dentist. As this Administrative Law Judge does not have equitable powers the Department's inability to grant prior approval for a service no longer covered is in accordance with Medicaid policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that after [REDACTED] the Department is unable to grant prior authorization for Appellant's upper partial.

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

cc: [REDACTED]

Date Mailed: 7/16/2010

***** 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.