

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 14-015935 PA

██████████,

██████████

██████████

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████ ██████████. The Appellant appeared without representation. ██████████ ██████████, Appeals Review Officer, represented the Department. ██████████ a Medicaid Utilization Analyst and Dental Hygienist with the Michigan Department of Community Health appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for Prior Authorization (PA) of a complete upper 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. Appellant is a ██████-year-old Medicaid beneficiary, born ██████████. (Exhibit A, pp. 5-7 and testimony).
2. The Appellant's dentist (████████████████████) sought approval for a complete upper denture and a lower partial denture on ██████████. (Exhibit A, p. 5 and testimony).
3. On ██████████, the request for a complete upper denture and a lower partial denture was reviewed and the request was denied as the Appellant was shown to have received such prostheses within the last ██████ years; a complete upper denture and a lower partial denture were placed

Docket No. 14-015935 PA
Decision and Order

on [REDACTED]. On [REDACTED] a Notice of Denial was sent to the Appellant. The Appellant was advised of her appeal rights. (Exhibit A, pp. 6-8 and testimony).

4. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing from the Appellant. (Exhibit A, p. 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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM). With respect to dental prior authorization requests, the MPM states:

SECTION 2 – PRIOR AUTHORIZATION

Prior authorization (PA) must be obtained for certain services identified in this chapter and those dental services identified as requiring PA in the MDCH Dental Database posted on the MDCH website. (Refer to the Directory Appendix for website information.) A PA request is needed only for those services requiring PA.

* * *

2.2 COMPLETION INSTRUCTIONS

The Dental Prior Approval Authorization Request form (MSA-1680-B) is used to obtain authorization. (Refer to the Forms Appendix for instructions for completing the form.) When requesting authorization for certain procedures, dentists may be required to send specific additional information and materials. Based on the MSA-1680-B and the documentation attached, staff approves or disapproves the request and returns a copy to the dentist. Approved requests are assigned a PA number. For billing purposes, the PA number must be entered in the appropriate field on the claim form. An electronic copy of the MSA-1680-B is available on the MDCH website. (Refer to the Directory Appendix for website information.) [*Medicaid Provider Manual, Dental Chapter, § 2, October 1, 2014, p. 3*].

Docket No. 14-015935 PA
Decision and Order

The general instructions for Medicaid coverage for complete and partial dentures during the period when the PA request and denial were made are set forth in the following policy from the Medicaid Provider Manual:

6.6.A. GENERAL INSTRUCTIONS [CHANGE MADE 10/1/14]

Complete and partial dentures are benefits for all beneficiaries. All dentures require prior authorization (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 when one or more of the following conditions exist:

- One or more anterior teeth are missing.
- There are less than eight posterior teeth in occlusion (fixed bridges and dentures are to be considered occluding teeth).
- An existing complete or partial denture cannot be made serviceable through repair, relining, adjustment, or duplicating (rebasing) procedures.

If an existing complete or partial denture can be made serviceable, the dentist should provide the needed restorations to maintain use of the existing removable prosthesis. This includes extracting teeth, adding teeth to the existing prosthesis, and removing hyperplastic tissue as necessary to restore the functionality of the complete or partial denture.

Before the final impressions are taken for the fabrication of a complete or partial denture, adequate healing necessary to support the prosthesis must take place following the completion of extractions and/or surgical procedures. This includes the posterior ridges of any immediate denture. When an immediate denture is authorized involving the six anterior teeth (cuspid to cuspid), this requirement is waived.

Reimbursement for a complete or partial denture includes all necessary adjustments, relines, repairs, and duplications within six months of insertion. This also includes such services necessary for an immediate upper denture when authorized. If any necessary adjustments or repairs are identified within the six month time period but are not provided until after the six month time period, no additional reimbursement is allowed for these services.

Docket No. 14-015935 PA
Decision and Order

When denture services have commenced but irreversible circumstances have prevented delivery, the dentist should bill using the Not Otherwise Classified (NOC) procedure code. A copy of the lab bill and an explanation in the Remarks section of the claim must be included. Providers are paid a reduced rate to offset a portion of the costs incurred. It is the expectation that the probability of removable appliances being delivered and followup treatment completed is assessed prior to the initiation of treatment to evaluate whether the treatment is appropriate for the specific patient. Contact the Program Review Division (PRD) regarding the requirements for incomplete dentures. (Refer to the Directory Appendix for contact information.) **(revised 10/1/14)** [*Medicaid Provider Manual, Dental Chapter, § 6.6.A., October 1, 2014, pp. 18-19*].

The immediate prior version of the Medicaid Provider contained the following general instructions.

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....

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.

██████████
Docket No. 14-015935 PA
Decision and Order

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. [*Medicaid Provider Manual, Dental*, §6.6.A., July 1, 2013, pp. 17-18, emphasis added].

At the hearing the Department witness testified that the Appellant's dentist, ██████████, sought approval for a complete upper denture and a lower partial denture on ██████████. The PA request was dated ██████████. The Department witness testified that on ██████████ the request for a complete upper denture and a lower partial denture was reviewed and the request was denied as the Appellant was shown to have received such prostheses within the last ██████ years; a complete upper denture and a lower partial denture were placed on ██████████. On ██████████ a Notice of Denial was sent to the Appellant. (Exhibit A, pp. 9-10 and testimony).

The Department's witness advised that the Department analyst that reviewed the Appellant's prior authorization request took it as a request for a complete upper and a lower partial denture. However, the wrong code was entered on the PA request form, and the denial indicates a denial of a complete lower and a partial lower denture. (Exhibit A, pp. 5, 7). The Department's witness stated they denied the PA request based on the policy set forth in Exhibit A, pp. 9-10, the ██████████ version of the *Medicaid Provider Manual, Dental*, § 6.6.A. quoted above.

When questioned why the Department did not follow the ██████████ version of the Medicaid Provider Manual that was in effect at the time the request and denial were made in this case, the Department's witness said they were told to use the July version of the manual. The Department's witness said the paragraph containing the bullets for when PA requests for complete or partial dentures are not to be authorized, such as when there has been a previous prosthesis provided within ██████ years, was "inadvertently" left out of the revised policy section in the ██████████ version of the manual. She later she said it was deleted from the revised policy. The Department's witness said the

██████████
Docket No. 14-015935 PA
Decision and Order

deletion was noted right away by the Department, but she was not able to provide any official policy statement, such as an MSA Bulletin published by the Department that indicates the October 1, 2014 version of the of the *Medicaid Provider Manual, Dental, § 6.6.A.* was not in effect because there were errors in the published text. The undersigned administrative law judge also checked on line and found that no such MSA Bulletin had been issued by the Department.

Following the close of the hearing, the Department's representative did offer a portion of a chart labeled "Medicaid Provider Manual, January 2015 Updates – Draft, Technical Changes" which indicates that the paragraph containing the bullets for when PA requests for complete or partial dentures are not to be authorized, such as when there has been a previous prosthesis provided within 5 years, from *Medicaid Provider Manual, Dental, §6.6.A.* was to be put back in the January 1, 2015 Medicaid Provider Manual to "[r]eplace information inadvertently removed 10/14/14". However, this chart was not an official pronouncement to Providers and Beneficiaries that the October 1, 2014 version of the *Medicaid Provider Manual, Dental, §6.6.A.* was not in effect at the time the request and subsequent denial were made in this case.

Appellant testified she was only seeking a new complete upper denture. Appellant said she dropped and broke her upper denture causing a couple of the teeth to fall out, but before she could take it back for a possible repair, it was damaged beyond repair when her house caught fire. Appellant said she needs a new complete upper denture as her gums are very sore without one. Appellant further said that she still has the lower partial denture. The Department's witness responded that an exception could be made to the policy if the Appellant submitted a police report indicating the denture had been damaged in the fire.

On review, the Department's decision to deny the Appellant's request for a complete upper denture was not reached within the policy contained in the ██████████ version of the Medicaid Provider Manual published and in effect during the time when the PA request and denial were made in this case. The undersigned Administrative Law Judge finds that the Department Analyst and the undersigned are bound by the policy contained in the Medicaid Provider Manual at the time of the denial in this case, that is, the ██████████ version of the *Medicaid Provider Manual, Dental § 6.6.A.*

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly denied the Appellant's PA request for a complete upper denture.

**Docket No. 14-015935 PA
Decision and Order**

IT IS THEREFORE ORDERED that:

The Department's decision is **REVERSED**.

William D Bond

William D. Bond
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [REDACTED]

***** NOTICE *****

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.