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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

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DIRECTOR

BILLY SMITH
7981 JACKSON STREET
TAYLOR, MI 48180

Date Mailed: February 7, 2020
MOAHR Docket No.: 19-013173
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

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 Petitioner's request for a hearing.

After due notice, a hearing was held on February 6, 2020. Petitioner appeared and testified on his own behalf. Emily Piggott, Appeals Review Officer, represented Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Kimberly Hanson, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for complete upper and lower 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. Petitioner is a [REDACTED]-year-old Medicaid beneficiary, born [REDACTED]. (Exhibit A, p 10; Testimony)
2. On November 11, 2019, Petitioner's dentist sought approval for complete upper and lower dentures for Petitioner. (Exhibit A, p 10; Testimony)
3. Records show that Petitioner was approved for complete upper and lower dentures through Medicaid on or about October 2, 2017. (Exhibit A, p 12; Testimony)
4. On November 26, 2019, the request for complete upper and lower dentures was reviewed and denied because Petitioner was shown to have received dentures within the last five years. (Exhibit A, p 10; Testimony)

5. On November 26, 2019, the Department sent Petitioner a Notice of Denial, including Petitioner's appeal rights. (Exhibit A, pp 8-9; Testimony)
6. On December 26, 2019, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit 1)

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 Policy in Michigan is found in the Medicaid Provider Manual (MPM). With regard to prior authorizations, it states, in pertinent part:

1.9 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. . . .

*Medicaid Provider Manual
Practitioner Chapter
October 1, 2019, p 4*

Under the general policy instructions for Medicaid related dental services the MPM sets replacement schedules for denture repair and replacement:

6.6 PROSTHODONTICS (REMOVABLE)

6.6.A. GENERAL INSTRUCTIONS

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. Complete upper and lower dentures 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.

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.

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.)

*Medicaid Provider Manual
Dental Chapter
October 1, 2019, pp 19-20
Emphasis added*

The Department witness testified that Petitioner's request was denied for failure to meet policy requirements for prosthesis replacement on a five-year rotation. According to Department records, Petitioner was approved for dentures through Medicaid on or about October 2, 2017.

Petitioner testified that he appealed because these dentures have never fit properly. Petitioner indicated that when he was fitted for these dentures, his mouth was not healed, so they never fit. Petitioner testified that the top denture just falls out when he puts it in his mouth and the bottom denture is crooked by at least 30 degrees. Petitioner indicated that the dentures have just been sitting in a bag for two years because they are unusable.

In response, the Department's witness noted that Petitioner was approved for immediate dentures in 2017, which are not always the best because they often do not fit well when the mouth heals. The Department's witness asked Petitioner if he had gone back to the dentist within six months of receiving the dentures to get them adjusted by the dentist. Petitioner indicated that he did go back, but that after making adjustments that still did not work, the dentist told Petitioner he would just have to get used to them.

In response, the Department's witness indicated that the only thing she could recommend was for Petitioner to file a complaint through the Medicaid hotline. Petitioner was given the number for the hotline.

On review, the Department's decision to deny the request for complete upper and lower dentures was reached within policy. Petitioner was approved for complete dentures on or about October 2, 2017. As such, Petitioner is not eligible for replacement of the dentures until October 2022. Unfortunately, this administrative law judge has no equitable authority and cannot ignore clear Department policy. Based on the evidence presented, the Department's decision was proper and must be upheld.

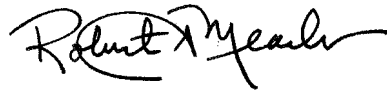
As indicated, Petitioner can file a complaint against the dentist through the Medicaid hotline.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

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



RM/sb

Robert J. Meade
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

Gretchen Backer
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DHHS Department Rep.

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Petitioner

[REDACTED]
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Agency Representative

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