



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: August 19, 2020
MOAHR Docket No.: 20-003106
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on June 25, 2020. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services contracted Medicaid Health Plan (MHP), MeridianHealth, was represented by Katie Tenbusch, Appeals Supervisor. Dr. Mannie Beck, Dental Consultant, Dental Quest, appeared as a witness for the MHP.

During the hearing proceeding, the MHP's Hearing Summary packet was admitted as marked, Exhibit A, pp. 1-38.

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for removal of teeth #1 and 16 (wisdom teeth)?

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 an adult Medicaid beneficiary enrolled in the MHP, date of birth March 27, 2000. (Exhibit A, p. 9)
2. On March 6, 2020, the MHP's vendor, DentaQuest, received a prior authorization request for removal of all four wisdom teeth for Petitioner. The request indicated the upper wisdom teeth (# 1 and 16) were partially

impacted and the lower wisdom teeth (# 17 and 32) were fully impacted. (Exhibit A, pp. 9-12)

3. On March 13, 2020, DentaQuest determined that the request for removal of teeth #17 and 32 would be approved but the request for removal of teeth #1 and 16 would be denied. (Exhibit A, pp. 13-14)
4. On March 15, 2020, the MHP issued a Notice of Adverse Benefit Determination stating the prior authorization request for extraction of teeth #1 and 16 would be denied because based on the x-ray and information from the dentist, it did not appear that these teeth needed to be removed. (Exhibit A, pp. 15-18)
5. On April 2, 2020, the MHP received an internal appeal request contesting the denial of the requested extractions for teeth # 1 and 16. (Exhibit A, pp. 19-21)
6. On April 4, 2020, DentaQuest's Dental Consultant reviewed the request and issued a recommendation upholding the denial because the documentation submitted did not demonstrate that the required criteria had been met at that time. Prophylactic removal of third molars is not a covered benefit under this plan. (Exhibit A, pp. 22-23)
7. On April 13, 2020, the MHP issued a Notice of Internal Appeal Decision-Denial stating the removal of teeth #1 and 16 was denied. The criteria requires notes from the dentist showing that these teeth have current disease, infection, that position of teeth are not normal, and/or that Petitioner has continuous or reoccurring pain that is more than the normal pain she would feel as the teeth break through the gums. The notes from Petitioner's dentist do not show that these conditions are present. The removal of wisdom teeth to prevent the above symptoms is not covered under her dental plan. (Exhibit A, pp. 3 and 24-33)
8. On May 21, 2020, Petitioner filed a hearing request with the Michigan Office of Administrative Hearings and Rules (MOAHR) contesting the MHP's determination. (Exhibit A, pp. 2-3)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 MHPs and, as provided in the Medicaid Provider Manual (MPM), is responsible for providing covered services pursuant to its contract with the Department:

1.2.A. MEDICAID HEALTH PLANS

MDHHS contracts with Medicaid Health Plans (MHPs) to provide services to Medicaid beneficiaries. MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the Medicaid Health Plans Chapter of this manual for additional information.)

Although MHPs must provide the full range of covered services, MHPs may also choose to provide services over and above those specified. MHPs are allowed to develop prior authorization (PA) requirements and utilization management and review criteria that differ from Medicaid requirements.

*MPM, Healthy Michigan Plan Chapter,
April 1, 2020, pp. 1-2*

For Healthy Michigan Plan (HMP) beneficiaries, the covered services include dental services.

5.1 DENTAL

Beneficiaries enrolled in a health plan will receive their dental coverage through their health plan. Each health plan contracts with a dental provider group or vendor to provide dental services administered according to the contract. The contract is between the health plan and the dental provider group or vendor, and beneficiaries must receive services from a participating provider to be covered. Questions regarding eligibility, prior authorization or the provider network should be directed to the beneficiary's health plan. It is important to verify eligibility at every appointment before providing dental services. Dental services provided to an ineligible beneficiary will not be reimbursed.

For those beneficiaries who are not enrolled in a health plan, dental services will be provided by enrolled dental providers through the Medicaid FFS program.

For dental program coverage policy, refer to the Dental Chapter of this manual. The Dental Chapter also contains information on the Healthy Kids Dental benefit, as applicable.

*MPM, Healthy Michigan Plan Chapter,
April 1, 2020, p. 10
(Underline added by ALJ)*

The Dental Chapter of the MPM addresses HMP dental and extractions:

1.1.D. HEALTHY MICHIGAN PLAN DENTAL

Beneficiaries enrolled in a health plan will receive their dental coverage through their health plan. Each health plan contracts with a dental provider group or vendor to provide dental services administered according to the contract. The contract is between the health plan and the dental provider group or vendor, and beneficiaries must receive services from a participating provider to be covered. Questions regarding eligibility, prior authorization or the provider network should be directed to the beneficiary's health plan.

6.7 ORAL SURGERY

Oral surgical procedures are benefits for all beneficiaries.

The extraction of teeth for orthodontic purposes is not a benefit. Reimbursement for operative or surgical procedures includes local anesthesia, analgesia, and routine postoperative care.

Surgical procedures such as surgeries of the jaw or facial bones are considered a medical benefit, not a dental benefit.

6.7.A. EXTRACTIONS

An extraction of an erupted tooth includes elevation and/or forceps removal. It includes minor contouring of the bone and closure if needed.

A surgical extraction requires the removal of bone and/or sectioning of a tooth and may require the elevation of the

mucoperiosteal flap. Minor contouring of the bone and closure of the tissue is included.

The extraction procedure code submitted for reimbursement must follow the CDT guidelines and is not based on the amount of time required, the difficulty of the extraction, or any special circumstances. An extraction is not a covered benefit if exfoliation is imminent.

Multiple extractions in the same quadrant for preparation of complete dentures are not considered surgical extractions unless guidelines for surgical extractions are met.

The extraction of an impacted tooth is not covered for prophylactic removal of asymptomatic teeth that exhibit no overt pathology.

*MPM, Dental Chapter,
April 1, 2020, pp. 2 and 23
(Underline added by ALJ)*

The DentaQuest Clinical Criteria for Surgical Extraction states:

14.01 Criteria for Dental Extractions

Not all procedures require authorization.

Documentation needed for authorization procedure:

- Appropriate radiographs clearly showing the adjacent and opposing teeth should be submitted for authorization review: bitewings, periapicals or panorex.
- Treatment rendered under emergency conditions, when authorization is not possible, requires the appropriate radiographs clearly showing the adjacent and opposing teeth be submitted with the claim for review for payment.
- Narrative demonstrating medical necessity.

(Exhibit A, p. 34)

In this case, DentaQuest received a prior authorization request for removal of all four wisdom teeth for Petitioner. The request indicated the upper wisdom teeth (# 1 and 16)

were partially impacted and the lower wisdom teeth (# 17 and 32) were fully impacted. The consultation note indicates Petitioner had mild acute symptomology bilaterally where the top wisdom teeth are protruding through the gummy tissue. The physical exam indicated teeth #1 and 16 are protruding through the mucosa and there is tenderness with palpation. (Exhibit A, pp. 9-12)

On March 13, 2020, DentaQuest determined that the request for removal of teeth #17 and 32 would be approved but the request for removal of teeth #1 and 16 would be denied. For teeth #1 and 16, there was no sign of infection, pain beyond normal eruption, or that the teeth were in a position that would not let them break through the gum on their own. (Exhibit A, pp. 13-14) Accordingly, on March 15, 2020, the MHP issued a Notice of Adverse Benefit Determination stating the prior authorization request for extraction of teeth #1 and 16 would be denied because based on the x-ray and information from the dentist, it did not appear that these teeth needed to be removed. (Exhibit A, pp. 15-18)

The MHP received an internal appeal request contesting the denial of the requested extractions for teeth # 1 and 16. Petitioner stated that her two wisdom teeth have been causing severe pain and discomfort for weeks, her teeth are starting to shift due to her wisdom teeth, and her retainers do not fit properly anymore. (Exhibit A, pp. 19-21) On April 4, 2020, DentaQuest's Dental Consultant reviewed the request and issued a recommendation upholding the denial because the documentation submitted did not demonstrate that the required criteria had been met at that time. Prophylactic removal of third molars is not a covered benefit under this plan. (Exhibit A, pp. 22-23) Accordingly, on April 13, 2020, the MHP issued a Notice of Internal Appeal Decision-Denial stating the removal of teeth #1 and 16 was denied. The criteria requires notes from the dentist showing that these teeth have current disease, infection, that position of teeth are not normal, and/or that Petitioner has continuous or reoccurring pain that is more than the normal pain she would feel as the teeth break through the gums. The notes from Petitioner's dentist do not show that these conditions are present. The removal of wisdom teeth to prevent the above symptoms is not covered under her dental plan. (Exhibit A, pp. 3 and 24-33)

The Dental Consultant explained that the main criteria for approval would be that there is severe pain in the tooth, the tooth is in a position where it would not break through the gum by itself, and/or the gums or bone around the tooth are diseased. When looking at the x-ray submitted with this request, the lower wisdom teeth are very tilted and butting up into the necks of the adjoining teeth. The upper wisdom teeth are more straight up and down and are not in such an abnormal position that they are completely unable to erupt on their own. There was also no notation of any disease or pain exceeding eruption, just tenderness with palpation. (Exhibit A, pp. 3 and 9-12; Dental Consultant Testimony)

Petitioner testified that her top wisdom teeth have started to pop out, her gums are tender, they are very swollen, there is bleeding with washing, as well as pain and discomfort. Petitioner cannot chew as well when she is eating. It is discomforting and

she is in pain. Petitioner knows her teeth are shifting because her retainers no longer fit. (Petitioner Testimony)

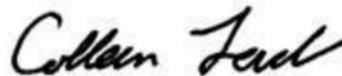
Overall, the evidence supports the MHP's determination to deny Petitioner's prior authorization request for the extractions for teeth # 1 and 16 for Petitioner. The records submitted with this request did not establish that the extraction criteria were met for the upper wisdom teeth. The records indicate partial impactions, with the teeth starting to protrude through the gums, mild acute symptoms, and tenderness with palpation on exam. (Exhibit A, pp. 9-12; Dental Consultant Testimony) The records submitted with this request do not document the severity of pain and symptoms Petitioner described in her appeals and testimony. (Exhibit A, pp. 2 and 19; Petitioner Testimony) Accordingly, the MHP's denial must be upheld based on the documentation submitted with this request.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the MHP properly denied Petitioner's request for removal of teeth #1 and 16 (wisdom teeth) based on the documentation submitted with this request.

IT IS, THEREFORE, ORDERED that:

The Medicaid Health Plan's decision is **AFFIRMED**.



CL/dh

Colleen Lack
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

Managed Care Plan Division
CCC, 7th Floor
Lansing, MI 48919

Petitioner

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