



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: November 19, 2020
MOAHR Docket No.: 20-006303
Agency No.: ██████████
Petitioner: ██████████

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 November 18, 2020. ██████████, Petitioner's son, appeared and testified on Petitioner's behalf. Allison Pool, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (Department). Dianne Redford, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for a complete upper denture and lower partial 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. Petitioner is an █████-year-old Medicaid beneficiary, born ██████████. (Exhibit A, p 13; Testimony)
2. On September 9, 2020, Petitioner's dentist sought approval for a complete upper denture and lower partial denture for Petitioner. (Exhibit A, p 13; Testimony)
3. Records show that Petitioner's dentist billed for an upper denture on February 21, 2019 and that payment for the denture was denied by Medicaid. (Exhibit A, p 14; Testimony)
4. Records also show that Petitioner's dentist billed for a lower denture on April 12, 2017 and received payment from Medicaid for the denture. (Exhibit A, p 15;

Testimony)

5. Records also show that Petitioner's dentist billed for an adjustment to an upper denture on June 16, 2019. (Exhibit A, p 16; Testimony)
6. An x-ray dated July 16, 2020 and submitted with Petitioner's prior authorization request shows that Petitioner was wearing an upper denture when the x-ray was taken. (Exhibit A, p 9; Testimony)
7. On September 24, 2020, the request for a complete upper denture and lower partial denture was reviewed and denied because Petitioner was shown to have received upper and lower dentures within the last five years. The request for a lower denture was also denied because, with the placement of Petitioner's upper denture, he had 10 posterior teeth in occlusion. (Exhibit A, pp 11-12; Testimony)
8. On September 24, 2020, the Department sent Petitioner a Notice of Denial, including Petitioner's appeal rights. (Exhibit A, pp 11-12; Testimony)
9. On October 9, 2020, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, pp 5-7; Testimony)

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
July 1, 2020, 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
July 1, 2020, pp 19-20
Emphasis added*

The Department's witness testified that Petitioner's request was denied for failure to meet policy requirements for prosthesis replacement on a 5-year rotation. According to department records, Petitioner's dentist billed for an upper denture on February 21, 2019 and the payment for the denture was denied by Medicaid. The Department's witness further testified that records show that Petitioner's dentist billed for a lower denture on April 12, 2017 and the payment for the denture was approved by Medicaid. The Department's witness indicated that records also show that Petitioner's dentist billed for an adjustment to an upper denture on June 16, 2019 and that an x-ray dated July 16, 2020 and submitted with Petitioner's prior authorization request shows that Petitioner was wearing an upper denture when the x-ray was taken.

Petitioner's son testified that he totally understands the refusal to approve a lower partial denture because his father did receive a lower denture in 2017 through Medicaid. However, Petitioner's son testified that Petitioner never received the upper denture in 2019. Petitioner's son explained that the dentist did prepare an upper denture for Petitioner at that time but that the denture quickly broke, and the dentist was never paid by Medicaid for the denture, as verified by the Department's records. Petitioner's son indicated that the dentist told Petitioner at the time that the denture could not be repaired, and that Petitioner would need to go somewhere else. Petitioner's son testified that he believes the record showing a repair to an upper denture in August 2019 is probably a repair done to the lower denture at that time as Petitioner did not have an upper denture in June 2019.

In response, the Department's witness indicated that the x-ray submitted with the prior authorization request clearly shows Petitioner wearing an upper denture in July 2020

and that Medicaid will not pay for a replacement even if Medicaid did not pay for the denture Petitioner was wearing then.

In response, Petitioner's son indicated that the denture shown in the x-ray was a denture that he paid cash for overseas. Petitioner's son testified that this denture is also broken, and Petitioner needs a new one.

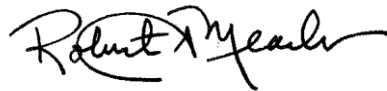
On review, the Department's decision to deny the request for a complete upper denture and lower partial denture was reached within policy. Petitioner received a lower denture in April 2017 and Petitioner's son does not dispute the denial of the lower denture. And, while Petitioner never received, and his dentist was never paid by Medicaid for the upper denture in February 2019, Petitioner clearly received an upper denture at some point after February 2019 because he was wearing that denture in an x-ray dated July 16, 2020. As indicated above, policy provides that Medicaid will not pay for new dentures if a patient has received dentures within the past 5 years, whether Medicaid paid for the prior dentures, or not. As such, Petitioner is not eligible for replacement of the upper dentures until five years after the denture he was wearing in the July 2020 x-ray were placed. Medicaid will continue to pay for repairs and adjustments to that denture. 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.

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 a complete upper denture and lower partial denture.

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
400 S. Pine, 6th Floor
PO Box 30479
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DHHS Department Rep.

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