



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 18, 2021
MOAHR Docket No.: 21-004740
Agency No.:
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon a request for a hearing filed by Petitioner Jeanette Cantwell (Petitioner).

After due notice, a telephone hearing was held on November 16, 2021. ██████████, Petitioner's daughter, appeared and testified on Petitioner's behalf. Allison Pool, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Eric Neilson, Section Manager in the Department's Program Review Division, testified as a witness for the Department.

During the hearing, the Department submitted one evidence packet/exhibit that was admitted into the record as Exhibit A, pages 1-15. Petitioner did not submit any proposed exhibits.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a complete lower 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. On April 26, 2017, Petitioner received a partial lower denture that was paid for by the Department. (Exhibit A, page 9; Testimony of Petitioner's Representative; Testimony of Section Manager).
2. Since that time, Petitioner has lost her remaining four lower teeth. (Exhibit A, page 12; Testimony of Petitioner's Representative).

3. On August 23, 2021, the Department received a prior authorization request for a complete lower denture submitted on Petitioner's behalf by her dentist. (Exhibit A, page 12).
4. On September 23, 2021, the Department sent Petitioner written notice that the request had been denied. (Exhibit A, pages 7-8).
5. With respect to the reason for the denial, the notice stated:

The policy this denial is based on is Section 6.6.A of the Dental chapter of the Medicaid Provider Manual. Specifically:

- Policy: Dental Chapter, Section 6.6.A. General Instructions. Complete or partial dentures are not authorized when Medicaid or Medicaid Managed Care has provided a denture within the same arch within five years. A lower partial denture was placed 4/26/2017 per the MDHHS Database.

Exhibit A, page 7

6. On October 12, 2021, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding that denial. (Exhibit A, page 6).

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 statutes, 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) and, in part, the applicable version of the MPM states:

6.6 PROSTHODONTICS (REMOVABLE)

6.6.A. GENERAL INSTRUCTIONS

Complete dentures, immediate complete dentures, and partial dentures are benefits for all beneficiaries and require PA. Complete or partial dentures are prior

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).

Providers must assess the beneficiary's general oral health and provide a five-year prognosis for the complete or partial denture requested. The provider is expected to evaluate whether the treatment is appropriate for the individual beneficiary, and assess the probability of delivering removable dentures and the beneficiary's compliance with follow-up care.

It is the provider's responsibility to discuss the treatment plan with the beneficiary, including any applicable frequency limits and other pertinent information related to the proposed services, and obtain the beneficiary's agreement with the proposed treatment plan. Documentation of the beneficiary's agreement must be retained in the beneficiary's dental record.

Full mouth/complete series radiographs must be submitted with PA requests for partial dentures. Radiographs are not required to be submitted with PA requests for complete dentures. MDHHS reserves the right to request radiographs if necessary. The following information must be submitted with the MSA-1680-B:

- The appropriate CDT code(s) for the service(s) requested.
- Completed tooth chart documenting missing teeth and teeth that will be extracted.
- Documentation of the soundness of the remaining teeth, if applicable.
- Five-year prognosis for the denture.

- Any pertinent health information (e.g., co-existing health conditions, pregnancy, etc.) that may impact the proposed treatment plan.

PA determinations are made based on review of the documentation submitted and do not guarantee reimbursement. The dentist is responsible for ensuring the completeness and accuracy of all documentation and tooth charting submitted with a PA request. Documentation errors resulting in improper payments may be subject to recovery of reimbursement by MDHHS regardless of authorization.

The following documentation must be retained in the beneficiary's dental record and made available to MDHHS upon request:

- Beneficiary understanding and agreement that another denture is not a covered benefit for five years.

Beneficiary education addressing all available treatment options and documentation of the beneficiary's understanding and agreement. Before the final impressions are taken for the fabrication of a denture, adequate healing necessary to support the denture must take place following the completion of extractions and/or surgical procedures.

When billing for a complete or partial denture, the date of service is the date the denture was delivered to the beneficiary. Reimbursement for a complete or partial denture includes all necessary adjustments, relines, repairs, duplication, etc. within six months of insertion.

Complete or partial dentures are not authorized when:

- **Medicaid or Medicaid Managed Care has provided a denture in the same arch within five years.**
- An adjustment, reline, repair, or rebase will make the current denture serviceable.

- A complete or partial denture obtained through Medicaid within five years has been lost or broken.

*MPM, July 1, 2021 version
Dental Chapter, pages 23-24
(Emphasis added)*

Here, the Department's witness testified that Petitioner's prior authorization request for a complete lower denture were denied pursuant to the above policies. Specifically, he noted that the request was denied because, as established by the Department's records, the Department/Medicaid provided a denture in the same arch within the past five years.

In response, Petitioner's Representative agreed that the Department previously provided a denture in the same arch within the past five years, but she also testified that Petitioner has lost her remaining lower teeth since that time and Petitioner can no longer use her partial lower denture. Petitioner's Representative further testified that Petitioner has health issues that require necessitate Petitioner being able to eat properly, but that Petitioner cannot do so without a complete lower denture.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying her prior authorization request. Moreover, the undersigned Administrative Law Judge is limited to reviewing Department's decision in light of the information available at the time the decision was made.

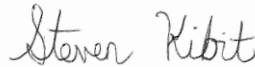
Given the record and applicable policies in this case, Petitioner has failed to meet her burden of proof and the Department's decision must therefore be affirmed. The above policy expressly provides that complete or partial dentures are not authorized when a previous denture has been provided in the same arch within five years and it is undisputed in this case that Petitioner had a partial lower denture that was paid for by the Department within the five years preceding her current request for a new lower denture. Accordingly, even if Petitioner can no longer use the previously provided denture, her current request must be denied.

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 prior authorization request.

IT IS, THEREFORE, ORDERED that:

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



SK/sb

Steven Kibit
Administrative Law Judge

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

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