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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: May 31, 2022
MOAHR Docket No.: 22-001764
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 May 25, 2022. Petitioner appeared and testified on her own behalf. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (Department). Carolyn Malhoit, 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 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 a [REDACTED]-year-old Medicaid beneficiary. (Exhibit A, p 10; Testimony.)
2. On November 17, 2021, Petitioner had an upper partial denture placed, paid for by Medicaid. (Exhibit A, p 11; Testimony.)
3. On March 11, 2022, Petitioner's dentist sought approval for a lower partial denture for Petitioner. (Exhibit A, p 10; Testimony.)
4. On April 6, 2022, the request for a lower partial denture was reviewed and denied because, with the existing upper partial denture, Petitioner had at least eight (8) posterior (back) teeth in occlusion (*i.e.*, biting together). (Exhibit A, p 8; Testimony.)

5. On April 6, 2022, the Department sent Petitioner a Notice of Denial indicating that Petitioner's request for a lower partial denture was denied. Petitioner was further advised of her appeal rights. (Exhibit A, pp 8-9; Testimony.)
6. On April 19, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for hearing. (Exhibit A, p 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 statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

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

SECTION 2 – PRIOR AUTHORIZATION

Prior authorization (PA) is required for services identified in this chapter and the Medicaid Code and Rate Reference tool. For questions about medically necessary dental services beyond those described in this chapter, providers should contact the MDHHS Program Review Division (PRD). (Refer to the Directory Appendix for website and contact information.)

* * *

2.2 COMPLETION INSTRUCTIONS

The Dental Prior Approval Authorization Request form (MSA-1680-B) is used to obtain authorization. An electronic fill-in enabled version of the MSA-1680-B is available on the MDHHS website. (Refer to the Directory Appendix for website information.)

Providers should use the appropriate CDT code(s) on all PA requests. When requesting medically necessary services for which there is no procedure code, the Not Otherwise Classified (NOC) code is used. Services requested under NOC codes require PA. The MSA-1680-B should only include the procedure(s) that requires PA.

* * *

*Medicaid Provider Manual
Dental Chapter
January 1, 2022, p 4*

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

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.

* * *

*Medicaid Provider Manual
Dental Chapter
January 1, 2022, p 22
Emphasis added*

The Department's witness testified that Petitioner's request for a lower partial denture was denied because, with the existing upper partial denture, Petitioner had at least eight (8) posterior (back) teeth in occlusion (*i.e.*, biting together). The Department's witness

indicated that, per policy, Petitioner did not, therefore, qualify for a lower partial denture at the time.

Petitioner indicated that she understood the explanation given by the Department's witness. Petitioner testified that with her current teeth, she has difficulty chewing vegetables and meats and sometimes chokes on her food. Petitioner indicated that she had not discussed her chewing difficulties, or her choking, with her primary care physician or her dentist.

In response, the Department's witness indicated that Petitioner should take the hearing packet, along with this Decision and Order, to her dentist following the hearing and see about other alternatives for treatment.

On review, the Department's decision to deny the request for dentures was reached within policy. The Department must enforce Medicaid policy as written. Based on the information submitted with the prior authorization request, Petitioner had at least eight (8) posterior teeth in occlusion with her existing upper partial denture. As such, she was not entitled to a lower partial denture at the time paid for by Medicaid.

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 a lower partial denture.

IT IS THEREFORE ORDERED that:

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



RM/tem

Robert J. Meade
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

Via Electronic Mail:

DHHS Dept Contact

Gretchen Backer
400 S. Pine, 6th Floor
P.O. Box 30479
Lansing, MI 48909
MDHHS-PRD-Hearings@michigan.gov

DHHS Department Rep.

M. Carrier
MDHHS
Appeals Section
P.O. Box 30807
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Agency Representative

Florence Scott-Emuakpor
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ScottF@michigan.gov

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]