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Date Mailed: November 29, 2022
MOAHR Docket No.: 22-004565
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 November 16, 2022. Petitioner appeared and testified on her own 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 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 Medicaid beneficiary. (Exhibit A, p 19; Testimony)

2. On August 30, 2022, Petitioner's dentist sought approval for complete upper and lower partial dentures for Petitioner. (Exhibit A, p 19; Testimony)

3. On September 20, 2022, the complete upper denture was approved but the lower partial denture was denied because, with the placement of the approved upper partial denture, Petitioner had at least 8 posterior (back) teeth in occlusion (i.e. biting together). (Exhibit A, pp 17-18; Testimony)

4. On September 20, 2022, the Department sent Petitioner a Notice of Amended Authorization indicating that Petitioner's request for a complete upper denture was approved but the request for a lower partial denture was denied. Petitioner was further advised of her appeal rights. (Exhibit A, pp 17-18; Testimony)

5. On October 5, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, pp 7-14)

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.
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> * * *

Medicaid Provider Manual
Dental Chapter
July 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 and partial dentures are benefits for all beneficiaries. All dentures require prior authorization PA. 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).
>
> 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
July 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 placement of the approved upper partial denture, Petitioner had 12 posterior (back) teeth in occlusion (i.e. biting together). The Department's witness also noted that the charting submitted with Petitioner's request did not show that she was missing any front teeth. The Department's witness indicated that, per policy, Petitioner did not, therefore, qualify for a lower partial denture at the time.

Petitioner testified that she only has 8 teeth on the bottom and those are all in the front. Petitioner indicated that she cannot chew or eat and must blend up all her food. Petitioner also indicated that she still has not received her complete upper denture because the dentist has said that she will need surgery first. Petitioner testified that the upper and lower dentures need to be made together to fit properly. Petitioner indicated that she should not have to pay for a mistake in charting by her dentist. Petitioner testified that she is on SSI and needs her teeth.

On review, the Department's decision to deny the request for dentures was reached within policy. The Department must enforce Medicaid policy as written and the undersigned has no authority to ignore clear policy. Based on the information submitted with the prior authorization request, Petitioner will have at least 8 posterior teeth in occlusion once the upper partial denture is placed. As such, she was not entitled to a lower partial denture at the time paid for by Medicaid.

As the Department's witness indicated, if the dentist made a mistake in charting Petitioner's teeth, the dentist could simply submit a new prior authorization request.

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/sr

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 Department Contact
Gretchen Backer
400 S. Pine, 6th Floor
Lansing, MI 48909
MDHHS-PRD-Hearings@michigan.gov

DHHS Department Representative
M. Carrier
Department Community Health
MDHHS
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Allison Pool
Department of Community Health
MDHHS Appeals Section
PO Box P.O. Box 30807
Lansing, MI 48909
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Via First Class Mail:

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