



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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Date Mailed: December 8, 2022
MOAHR Docket No.: 22-004980
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 Petitioner's request for a hearing.

After due notice, a telephone hearing was held on December 7, 2022. Petitioner appeared and testified on her own behalf. Allison Pool, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Carolyn Malhoit, Medicaid Utilization Analyst, testified as a witness for the Department.

During the hearing, the Department offered one evidence packet/exhibit that was admitted into the record as Exhibit A, pages 1-14. Petitioner did not offer any exhibits.

ISSUE

Did the Department properly deny Petitioner's prior authorization request 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. On September 12, 2022, the Department received a prior authorization request for upper and lower partial dentures submitted on Petitioner's behalf by a dentist. (Exhibit A, page 11).
2. As part of that request, Petitioner's dentist indicated that Petitioner had all of her anterior teeth, but that she was missing two upper posterior teeth and two lower posterior teeth, with five more upper posterior teeth and four more lower posterior teeth to be extracted. (Exhibit A, page 11; Testimony of Medicaid Utilization Analyst).

3. On September 27, 2022, the Department sent Petitioner notices stating that the request for an upper partial denture was approved, but that the request for a lower partial denture was denied. (Exhibit A, pages 7-10).
4. With respect to the reason for the denial, a 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 6.6.A. General Instructions. Complete or partial dentures are authorized when there are less than eight posterior teeth in occlusion (fixed bridges and dentures are to be considered occluding teeth). The beneficiary has eight posterior teeth in occlusion with the placement of an upper partial denture.

Exhibit A, page 9

5. On November 2, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter with respect to 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 [CHANGE MADE 4/1/22]

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.

Providers should not send radiographs with PA requests for complete or partial dentures. Radiographs that are not specifically requested by MDHHS may not be returned to the provider. **(Revised per bulletin MSA 21-44)** 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.

*MPM, July 1, 2022 version
Dental Chapter, pages 22-23
(Internal highlighting omitted)
(Emphasis added)*

Here, the Department's witness testified that Petitioner's prior authorization request for a lower partial denture was denied pursuant to the above policy. Specifically, she noted that the request was denied because, per the documentation submitted, Petitioner will have eight posterior teeth in occlusion, *i.e.*, biting together, when considering her four lower posterior teeth and the approved upper partial denture.

In response, Petitioner testified that the information in the prior authorization request is outdated as she has since had another lower posterior tooth removed and there are plans to extract three additional posterior teeth, one upper and two lower. She also testified that she has both a calcium deficiency and a temporomandibular joint disorder (TMJ), and that she needs to eat normally.

The Department's witness then testified that Petitioner could have her dentist submit a new request for a lower partial denture along with any updated information, following the same process as before.

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 the Department's decision in light of the information available at the time the decision was made.

Given the record and applicable policy in this case, Petitioner has failed to meet her burden of proof and the Department's decision must be affirmed. The above policy clearly provides that a lower partial denture would only be authorized in this case if Petitioner has missing lower anterior teeth or less than eight posterior teeth in occlusion, and, here, the information provided as part of the prior authorization request demonstrated both that Petitioner has all her lower anterior teeth and that she would have eight posterior teeth in occlusion, *i.e.* biting together, when the previously-approved upper denture and Petitioner's existing lower posterior teeth were considered.

Moreover, while Petitioner testified that her situation has now changed and she is missing another lower posterior tooth, with two more to be extracted, the undersigned

Administrative Law Judge is limited to reviewing the Department's decision in light of the information available at the time the decision was made and given the information in the prior authorization request, the denial was clearly correct.

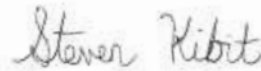
To the extent Petitioner has additional or updated information to provide regarding her need for dentures, she can always have another prior authorization request submitted along with that information. With respect to the decision at issue in this case, however, the Department's decision must be affirmed given the information available at the time the decision was made.

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 for a lower partial denture.

IT IS THEREFORE ORDERED that:

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



SK/sj

Steven Kibit
Administrative Law Judge

NOTICE OF APPEAL:

Petitioner 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
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Via First Class Mail:

Petitioner

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