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Date Mailed: February 23, 2023
MOAHR Docket No.: 23-000184
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 February 16, 2023. Petitioner appeared and testified on his own behalf. Theresa Root, 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 1-18. 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 November 27, 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 9).

2. As part of that request, Petitioner's dentist indicated that Petitioner had all of his anterior teeth, but that he was missing eight upper posterior teeth and five lower posterior teeth. (Exhibit A, page 9; Testimony of Medicaid Utilization Analyst).

3. On January 3, 2023, 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 11-14).

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 ten posterior teeth in occlusion with the placement of an upper partial denture.

Exhibit A, page 13

5. On January 17, 2023, 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 4).

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 [CHANGES MADE 4/1/22 & 10/1/22]**
>
> 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, October 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 ten posterior teeth in occlusion, *i.e.,* biting together, when considering his five lower posterior teeth and the approved upper partial denture.

In response, Petitioner testified that he only one posterior tooth, with two missing on his left and three missing on his right. He also testified that he has not yet received his upper partial denture yet.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his 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 his 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 his lower anterior teeth and that he would have ten posterior teeth in occlusion, *i.e.* biting together, when the previously-approved upper denture and Petitioner's existing lower posterior teeth were considered. Moreover, to the extent Petitioner testified that he only has one posterior tooth, his testimony is not supported by the charting submitted by his dentist and his testimony appears to mistakenly discount teeth number 20, 21, 28 and 29, which, as credibly testified to by the Department's witness, are posterior teeth.

To the extent Petitioner has additional or updated information to provide regarding his need for dentures, he 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: 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).

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