



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: May 2, 2023
MOAHR Docket No.: 23-001492
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 April 25, 2023. Petitioner appeared on her own behalf. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (Department). Eric Neilson, Section Manager, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for an upper 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 7; Testimony)
2. On February 2, 2023, Petitioner's dentist sought approval for an upper partial denture for Petitioner. (Exhibit A, p 7; Testimony)
3. On March 9, 2023, the request for an upper partial denture was reviewed and denied because Petitioner had 8 posterior (back) teeth in occlusion (i.e. biting together). (Exhibit A, p 7; Testimony)
4. On March 9, 2023, the Department sent Petitioner a Notice of Denial, which also advised Petitioner of her appeal rights. (Exhibit A, pp 8-9; Testimony)
5. The Notice of Denial did indicate, however, that Department policy changed on April 1, 2023 and that Petitioner would likely be eligible for an upper partial denture at this time. (Exhibit A, p 8; Testimony)

6. On March 22, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, pp 6-8)

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, 2023, 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
January 1, 2023, pp 21-22
Emphasis added*

The Department witness testified that Petitioner's request for an upper partial denture was denied because Petitioner had at least 8 posterior teeth in occlusion. The information submitted indicated that Petitioner has posterior teeth 2, 3, 4, and 12 occluding with posterior teeth 31, 30, 29, and 21. The Department witness indicated that, per policy, Petitioner did not, therefore, qualify for an upper partial denture at this time.

The Department witness did indicate, however, that policy changed April 1, 2023, which removed the "8 posterior teeth in occlusion" requirement and that Petitioner would likely be eligible today to receive the upper partial denture, provided Petitioner had not had a prosthesis placed in the same arch within the past 5 years. The Department witness indicated that Petitioner should just have her dentist contact provider support, who

would run a five-year check, and then, provided Petitioner met that requirement, issue an authorization.

Petitioner testified that she understood the new policy and would follow up with her dentist. Petitioner indicated that the extractions were being done because her teeth were in bad shape after going years without insurance. Petitioner testified that her back teeth were just more like nubs than teeth at this time.

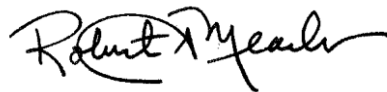
On review, the Department's decision to deny the request for dentures was reached within policy. Based on the information submitted with the prior authorization request, Petitioner has 8 posterior teeth in occlusion. As such, Petitioner was not entitled to an upper partial denture at the time, paid for by Medicaid. However, as indicated, the Department's policy has now changed, and Petitioner would likely qualify for an upper partial denture today.*(See New Policy Below).

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 prior authorization for an upper partial denture.

IT IS THEREFORE ORDERED that:

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



RM/sj

Robert J. Meade
Administrative Law Judge

*** New Policy:**

II. Changed to Dental Benefits

F. Changes to Complete and Partial Dentures

Complete and partial dentures are benefits once per five years per arch. Complete and partial dentures will no longer require PA. In addition, Medicaid is removing the partial denture requirements for missing at least one anterior tooth or having eight posterior teeth in occlusion. All other policy and coverage parameters remain unchanged. Refer to the MDHHS Medicaid Provider Manual, Dental chapter, for additional information.

Providers must verify with MDHHS that the beneficiary is eligible for a complete or partial denture per the five-year rule as described in the Frequency Verification Process section below prior to rendering service. Failure to complete the verification process may result in claim denial.

Billing Instructions: Providers must attest that the expected prognosis of the complete or partial denture is at least five years in the Remarks section of the claim.

Frequency Verification Process

Providers are required to verify** with MDHHS that the beneficiary is eligible for a crown, complete denture or partial denture per the five-year rule prior to rendering service. Providers can contact Provider Support, preferably via encrypted email, at providersupport@michigan.gov and include "Dental Frequency" in the subject line. Providers should allow seven State business days to receive a response. The provider will be issued a service request number upon completion of the verification process.

"It is the provider's responsibility to verify the five-year rule before providing service and retain documentation of the service request number and date of the response in the beneficiary's dental record. Failure to complete the process may result in denied claims. MDHHS may request this documentation to resolve a denied claim or administrative error. The provider cannot bill the beneficiary for services rendered.

(Refer to the General Information for Providers chapter of the **MDHHS Medicaid Provider Manual**, Billing Beneficiaries section for additional information.)

*Michigan Medicaid Policy Bulletin 23-13
Effective April 1, 2023, p 6 of 7
Emphasis added*

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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last-known addresses in the manner specified below, this 2nd day of May 2023.

S. James

S. James
**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

DHHS Department Contact

Gretchen Backer
400 S. Pine, 6th Floor
Lansing, MI 48909

**MDHHS-PRD-
Hearings@michigan.gov**

DHHS Department Representative

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Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]