



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 22, 2023
MOAHR Docket No.: 23-001894
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and upon the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on May 18, 2023. [REDACTED] Petitioner's Mother, appeared and offered testimony on behalf of Petitioner. Austin Moag, Assistant General Counsel, appeared on behalf of Respondent Delta Dental (Department).

Exhibits:

Petitioner	None
Department	A – Hearing Summary B – Supplemental Hearing Summary

ISSUE

Did Department properly deny Petitioner's request for coverage for out-of-network services, and did the Department provide an adequate list of in-network providers?

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 Medicaid beneficiary enrolled with Department as a Healthy Kids Dental participant. (Exhibit A; Testimony.)
2. At all times relevant to this proceeding, Petitioner lived in a rural county. (Exhibit A; Testimony.)

3. At all times relevant to this proceeding, the Department had a list of at least 16 in-network dental providers located within 40 miles of Petitioner's residence. (Exhibit B; Testimony.)
4. On or around February 15, 2023, the Petitioner sought Medicaid coverage for dental services from Matthew Free DMD PC an out-of-network provider. (Exhibit A; Testimony.)
5. On February 15, 2023, the Department issued Petitioner an Explanation of Benefits notice. The notice indicated the requested dental services from Matthew Free DMD PC would not be covered as a covered benefit as a result of Matthew Free DMD PC being an out-of-network provider. (Exhibit A; Testimony.)
6. On March 24, 2023, the Petitioner submitted to Respondent an Internal Grievance/Appeal, appealing the decision to deny coverage and further indicating a problem with finding in-network providers. (Exhibit B; Testimony.)
7. On March 27, 2023, the Respondent provided Petitioner with a letter responding to Petitioner's March 24, 2023, internal appeal. Respondent's letter indicated their decision to deny coverage would be affirmed based on Matthew Free DMD PC being an out-of-network provider and further identified 16 other treating providers located within 40 miles of Petitioner's zip code. (Exhibit B; Testimony.)
8. On April 6, 2023, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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.

The Medicaid Provider Manual (MPM) addresses Dental benefits like the ones at issue in this appeal. Specifically, the manual provides the following:

Throughout this chapter, the term Medicaid refers to all programs administered by Michigan Department of Health and Human Services (MDHHS), including Healthy Michigan Plan (HMP), **Healthy Kids Dental** (HKD), MICHild, and other programs, unless specifically stated otherwise. The primary objective of Medicaid is to ensure that essential health care

services are made available to those individuals who would not otherwise have the financial resources to purchase them. Policies are aimed at maximizing medically necessary health care services available to eligible Medicaid beneficiaries.

Dental services may be provided by Medicaid-enrolled providers when performed by properly credentialed/licensed professionals acting within their scope of practice as defined in State law, including any applicable supervision requirements. Dental services that may be provided to Medicaid beneficiaries include emergency, diagnostic, preventive, and therapeutic services for dental disease which, if left untreated, would become acute dental problems or cause irreversible damage to teeth or supportive structures. Determination of medical necessity and appropriateness of services is the responsibility of the dentist within the scope of current accepted dental practice and the limitations of Medicaid policy.¹

SECTION 9 – HEALTHY KIDS DENTAL

9.1 BENEFIT ADMINISTRATION INFORMATION

MDHHS contracts with dental health plans (DHPs) for the statewide administration of dental benefits for HKD beneficiaries. Dental providers **must** be enrolled in the Michigan Medicaid program via CHAMPS and be a contracted network provider of the DHP to provide dental services to HKD beneficiaries. Providers may choose to participate in one or more DHP networks. HKD beneficiaries access dental services through their DHP network dentist.

DHPs administer covered dental services according to Medicaid policy, contract requirements, and the DHP's standard policies, procedures, PA, and claim submission process. It is the provider's responsibility to adhere to the DHP's policies and procedures when providing services to HKD beneficiaries.²

In complying with the policy found in the MPM, the Department issued their participating beneficiaries handbooks that indicated services will only be covered by

¹ MPM, Dental, January 1, 2022, p 1.

² MPM, Dental, January 1, 2022, p 32.

participating dentists and asked beneficiaries to ensure their dentist participates in the Delta Dental HKD network.³

In this case, the Department is one of the DHP's contracted with the MDHHS to administer dental benefits for HKD beneficiaries like Petitioner. And in this case, the Petitioner chose to see a provider that was not a contracted network provider. Consequently, the Department denied payment for the services rendered by the out-of-network provider which resulted in this appeal.

Petitioner did not dispute the policy and only raised equitable and constitutional claims regarding the policy and its application.

The Delegation of Authority from the DHHS to the Michigan Office of Administrative Hearings and Rules, specifically provides "[a]dministrative law judges have no authority to make decisions concerning the constitutionality of Department policies, to overrule statutes, to overrule promulgated regulations, or to overrule or make exceptions to MDHHS policy". As a result, my role is to solely determine if the Department's actions were in conformity with the applicable laws and policies.

In this case, the applicable policies clearly require dental providers to be enrolled in the Michigan Medicaid program via CHAMPS and be a contracted network provider of the DHP. Because the provider selected by the Petitioner was an out-of-network provider, the Department had no choice but to deny coverage for the services rendered. Additionally, Petitioner raised an issue regarding the number of in-network providers in Petitioner's service area and voiced concerns regarding those without transportation from being able to see an in-network provider. Petitioner, however, did not deny the presence of at least 16 in-network options; did not indicate they themselves have transportation issues or indicate they had requested and were denied medical transportation. Additionally, it is worth noting that the out-of-network provider Petitioner wishes to see is located just as far if not farther than many of the 16 providers provided by the Department.⁴

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly denied coverage for the services rendered by the out-of-network provider and further has an adequate list of in-network providers.

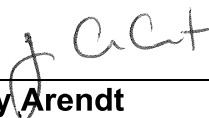
³ Exhibit A, pp 16-18, 22.

⁴ See Exhibit B. Petitioner resides in Rogers City, Michigan, and Dr. Matthew Free is located in Cheboygan, Michigan. According to Petitioner, the distance is approximately 30 miles.

IT IS, THEREFORE, ORDERED that:

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

CA/pe



Corey Arendt
Administrative Law Judge
for Elizabeth Hertel, Director
Department of Health and Human Services

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

MDHHS
CCC, 7th Floor
Lansing, MI 48933
MDHHS-MCPD@michigan.gov

Petitioner

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

Authorized Hearing Representative

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