



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

Date Mailed: November 22, 2023

MOAHR Docket No.: 23-007114

Agency No.: [REDACTED]

Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 42 CFR 431.200 *et seq.* and 42 CFR 438.400 *et seq.* upon Petitioner's request for a hearing.

After due notice, a hearing was held on November 21, 2023. Petitioner appeared and testified on her own behalf. Austin C. Moag, Assistant General Counsel, appeared and testified on behalf of Respondent, Delta Dental of Michigan, on behalf of the Medicaid Health Plan HAP.

ISSUE

Did the Respondent properly deny Petitioner's prior authorization (PA) requests for restoration work and crowns?

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 who is enrolled in the Respondent Healthy Michigan Dental Plan. Petitioner is over [REDACTED] years of age. (Exhibit A, p 2; Testimony)
2. On September 19, 2023, Respondent received a pre-treatment estimate from Petitioner's dentist for bridge work, including restoration work, a pontic – porcelain/ceramic, and two crowns on teeth 13, 14 and 15. (Exhibit A, pp 1-3; Testimony)
3. On September 25, 2023, Respondent sent Petitioner and her dentist a Notice of Adverse Benefit Determination indicating that the request for bridge work, including restoration work, a pontic – porcelain/ceramic, and two crowns on teeth 13, 14 and 15 was denied because, per policy, the procedures were not a covered benefit. (Exhibit A, pp 4-6; Testimony)

4. On October 24, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for hearing. (Exhibit 1)

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.

In 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans (MHP).

The Respondent is the dental contractor for one of those MHPs and, as provided in the Medicaid Provider Manual (MPM), is responsible for providing covered services pursuant to its contract with the Department:

The Michigan Department of Health and Human Services (MDHHS) contracts with Medicaid Health Plans (MHPs), selected through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. The MHP contract, referred to in this chapter as the Contract, specifies he beneficiaries to be served, scope of the benefits, and contract provisions with which the MHP must comply. Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is available on the MDCH website. (Refer to the Directory Appendix for website information.)

MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the General Information for Providers and the Beneficiary Eligibility chapters of this manual for additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those specified. MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements. The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.

Policy for Healthy Michigan Plan recipients through Respondent Delta Dental Plan indicates, in relevant part:

Covered services include:

- Oral exams (*1 in 6 months*)
- Comprehensive Periodontal Evaluation (*1 in 12 months*)

Note: comprehensive periodontal evaluation is not a covered benefit when billed in conjunction with, or within six months of other oral exams

- Assessment (*1 in 6 months*)
- X-rays
- Bitewing X-rays (*1 in 12 months*)
- Full mouth or panoramic X-rays (*1 in 5 years*)
- Teeth cleaning (prophylaxis) (*1 in 6 months*)
- Scaling in the Presence of Inflammation (*1 in 6 months*)

Note: scaling in the presence of inflammation is not covered within 6 months of prophylaxis, scaling and root planing, periodontal maintenance, or debridement procedures

- Periodontal Maintenance (*1 in 6 months*)

Note: Any combination of teeth cleanings (prophylaxis, scaling in the presence of inflammation and periodontal maintenance procedures) are covered once per 6 months.

- Scaling and Root Planing (*1 in 2 years per quadrant, maximum of 2 quadrants per day*)
- Sealants (*1 in 3 years for first and second primary (baby) molars and first and second permanent (adult) premolars and molars*)
- Fillings
- Sedative filling
- Crowns, including porcelain, metal and resin based (*1 in 5 years*)
- Crown buildup, including pins
- Re-cement crowns and bridges

- Root canals
- Extractions, simple and surgical
- Limited other oral surgery
- Emergency treatment of dental pain
- IV sedation (*when medically necessary*)
- Complete denture (*1 in 5 years*)
- Partial denture (*1 in 5 years*)
- Denture adjustments and repairs
- Denture rebase and reline (*1 time in 2 years*)

In addition, if you are under age 21, the services listed below are also covered for you:

- Fluoride Varnish (*1 in 6 months*)
- Topical application of Fluoride (*1 in 6 months*)

Note: Topical application of fluoride cannot be combined with fluoride varnish within the same six months.

- Temporary partial denture (*only to replace front teeth*)
- Stainless steel crown (prefabricated) (*1 in 2 years on same tooth*)

Some services are NOT covered. Excluded services are:

- Bite guards
- Removal of healthy third molars (wisdom teeth)
- Bridges and inlays
- Implants
- Braces
- Cosmetic dentistry
- Removable space maintainers
- Services covered under a hospital, surgical/medical, or prescription drug program

- Treatment of TMJ (*TMJ is a problem that can cause pain in your jaw joint and can also cause pain in the muscles that control jaw movement.*)
- Cone Beams CTs
- Nitrous Oxide

(Exhibit A, p 24; Emphasis added)

Pursuant to the above policy and its contract with the Department, Respondent has developed a prior authorization process subject to the limitations and restrictions described in Respondent's Medicaid agreement, the MPM, Medicaid bulletins, and other directives.

Respondent's witness testified that Petitioner's request for bridge work was denied for failure to meet policy requirements. Specifically, Respondent's witness indicated that bridge work is not a covered benefit under the plan.

Petitioner testified that her dentist said she needed the bridge work. Petitioner indicated that she cannot smile because of her missing teeth and is very self-conscious about it. Petitioner indicated that she filed the request for hearing to see if there was any possible way the work could be covered.

Given the above policy and evidence, Petitioner has failed to prove by a preponderance of the evidence that Respondent erred in denying the prior authorization request for bridge work. As indicated above, policy clearly states that bridge work is not covered under the plan. As such, Respondent properly denied her request. While the undersigned can certainly sympathize with Petitioner's situation, the undersigned has no authority to ignore clear policy and no equitable powers to grant Petitioner any relief. *Huron Behavioral Health v Department of Community Health*, 293 Mich App 491 (2011).

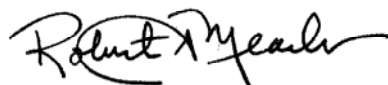
Accordingly, Respondent properly denied Petitioner's request for bridge work.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Respondent properly denied Petitioner's prior authorization request for bridge work.

IT IS THEREFORE ORDERED that:

Respondent's decision is **AFFIRMED**.



Robert J. Meade
Administrative Law Judge

RM/sj

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 22nd day of November 2023.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]
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