



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: March 7, 2024  
MOAHR Docket No.: 24-001235  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Corey Arendt**

**DECISION AND ORDER**

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

With due notice, a telephone hearing was held on March 5, 2024. [REDACTED], Petitioner’s Mother, appeared on behalf of Petitioner. Petitioner did appear and provide testimony on her own behalf. Dr. Michael Sofianos, Dental Consultant, appeared on behalf of the Respondent (Department).

Exhibits:

Petitioner	None
Department	A – Hearing Summary

**ISSUE**

Did Department properly deny Petitioner’s request for coverage for the removal of two molars?

**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 with the Department through the Health Kids Dental (HKD) program. (Exhibit A).
2. On or prior to November 9, 2023, Petitioner’s treating dentist submitted a request to the Department for the extraction of teeth numbers 1 and 16.

The reason provided for removal was intermittent pain and symptoms of periodontal infection. (Exhibit A; Testimony).

3. On November 9, 2023, the Department sent Petitioner a Notice of Adverse Benefit Determination. The notice indicated Petitioner's request was denied for not meeting the applicable criteria and stated specifically:

To approve this service you must have severe pain in your tooth, the tooth must be in a position that will not let it break through the gum by itself, and your gums or bone around the tooth are diseased. Our dentist looked at the x-ray and the information from your dentist. It does not appear that this tooth needs to be removed.<sup>1</sup>

4. On or prior to November 29, 2023, the Petitioner filed an internal appeal, appealing the November 9, 2023, denial. (Exhibit A; Testimony.)
5. On November 29, 2023, the Department issued a notice of appeal. The notice indicated the following:

Dr. Mannie Beck, who is a DentaQuest Dental Consultant, reviewed the documentation submitted with your appeal; as a result, the denial is upheld for extraction of teeth 1 and 16. To qualify for this benefit under this plan, a case must demonstrate evidence of current pathology, infection, aberrant position, and/or continuous and/or reoccurring pain beyond normal eruption. This service is denied because the documentation submitted does not demonstrate the required criteria have been met at this time. Prophylactic removal of third molars is not a covered benefit under this plan. This decision was based on the DentaQuest clinical criteria for extractions.<sup>2</sup>

6. On February 7, 2024, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A).

### **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.

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<sup>1</sup> Exhibit A, p 10.

<sup>2</sup> Exhibit A, p 145.

On May 30, 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.

## **SECTION 10 – HEALTHY KIDS DENTAL**

### **10.1 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 dental provider.

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 procedure when providing services to HKD beneficiaries.

There is no beneficiary copayment for HKD services. Reimbursement for covered services rendered to HKD beneficiaries is based on the individual DHP's fee schedule. The DHP provides its fee schedule directly to its contracted network providers. Providers must accept the DHP's reimbursement as payment in full and cannot balance bill the beneficiary for services rendered. For specific information on a DHP's HKD network participation requirements, reimbursement schedule, or other DHP-specific policies and procedures, providers may contact the DHP. (Refer to the Directory Appendix for DHP contact information.)

### **10.2 Covered Services**

The HKD benefit plan covers, at a minimum, all codes listed on the MDHHS Dental Fee Schedule. DHPs must provide the full range of Medicaid covered dental services to beneficiaries but are permitted to develop PA requirements for utilization management review criteria that differ from

Medicaid. Questions about covered HKD benefits should be directed to the beneficiary's DHP.<sup>3</sup>

Pursuant to the above policy and the contract with the Department, the MHP and its dental vendor have developed prior authorization requirements and utilization and management and review criteria; in particular, as testified to by Department's Dental Consultant and provided in its exhibit.<sup>4</sup>

Regarding extractions, Clinical Criteria states in part that "[t]he prophylactic removal of asymptomatic teeth (i.e. third molars) or teeth exhibiting no overt pathology (for orthodontics) may be covered subject to review."<sup>5</sup>

Here, Department denied coverage for the extraction of Petitioner's molars/wisdom teeth pursuant to the above policies.

In support of that decision, Department's consulting dentist testified that he reviewed all of the documentation received by Respondent and that the submitted documentation failed to show any medical necessity for the removal of Petitioner's teeth. In particular, he noted that Petitioner's teeth had a normal eruption pattern, and there was no overt pathology with respect to them. Petitioner's consulting dentist also testified that the request only identified pain, and was therefore not medically necessary or covered by Petitioner's dental plan.

In response, Petitioner testified that she has had pain in her teeth over a year.

Petitioner bears the burden of proving by a preponderance of the evidence that Department erred in denying Petitioner's request for coverage for the removal of her teeth.

Given the record in this case, Petitioner has failed to meet that burden of proof and Department's decision must be affirmed. Department's consulting dentist credibly testified that Petitioner's teeth were asymptomatic, with no overt pathology, and that their removal would therefore be both prophylactic and non-covered; and nothing in the record contradicts that testimony. Moreover, while Petitioner did generally testify about pain in her teeth; the documentation only referenced pain and Department's consulting dentist credibly explained that the pain by itself does not meet medical necessity requirements.

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<sup>3</sup> Medicaid Provider Manual, Dental, January 1, 2024, pp 34-35.

<sup>4</sup> Exhibit A, p 77.

<sup>5</sup> *Id* at 77.


## DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Department properly denied Petitioner's request for coverage for the removal of her teeth.

**IT IS, THEREFORE, ORDERED** that:

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

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**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:**

**Community Health Representative**

BCBSM Health Kids Dental

DentaQuest

Attn: Angela Knuth

11100 W. Liberty Dr.

Milwaukee, WI 53224

**CGATeam4@dentaquest.com**

**DHHS Department Contact**

MDHHS Managed Care Plan Division

400 S. Pine St., 7<sup>th</sup> Floor

Lansing, MI 48933

**MDHHS-MCPD@michigan.gov**

**Via First Class Mail:**

**Petitioner**

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