



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

Date Mailed: June 14, 2024
MOAHR Docket No.: 24-005267
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 June 13, 2024. Petitioner appeared and testified on his own behalf. Karina Coateston, Supervisor, Appeals, appeared and testified on behalf of Respondent, Meridian Healthcare, the Medicaid Health Plan, (Respondent or MHP). Tanisha Hubbard, Lead Specialist, Appeals, appeared as a witness.

ISSUE

Did the Respondent properly deny Petitioner's prior authorization (PA) request for an upper arch mouth guard?

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. (Exhibit A, p 11; Testimony)
2. In January 2024, Respondent received a Request for Predetermination/ Preauthorization from Petitioner's dentist for an upper arch mouth guard. (Exhibit A, p 12; Testimony)
3. On January 26, 2024, Respondent sent Petitioner and his dentist a Notice of Adverse Benefit Determination indicating that the request for an upper arch mouth guard was denied because, per policy, the device is not a covered benefit. (Exhibit A, pp 14-21; Testimony)

4. On March 12, 2024, Petitioner requested an internal appeal. (Exhibit A, pp 22-32; Testimony)
5. On April 5, 2024, Respondent sent Petitioner a Notice of Internal Appeal Decision – Denial, which upheld the denial. (Exhibit A, p 33-44)
6. On May 16, 2024, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner’s request for hearing. (Exhibit A, pp 1-5)

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 the 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.

Medicaid Provider Manual
Medicaid Health Plan Chapter
January 1, 2024, p 1
Emphasis added
(Exhibit A, p 24; *Emphasis added*)

With regard to Dental services, the MPM provides, in relevant part:

SECTION 7 – COVERED SERVICES

This section provides information on Medicaid covered services and is divided into subsections that correspond to the categories of services in the CDT published by the ADA:

- Diagnostic Services
- Preventive Services
- Restorative Treatment
- Endodontics
- Periodontics
- Prosthodontics (Removable)
- Oral Surgery
- Adjunctive General Services

SECTION 8 – NONCOVERED SERVICES

The following dental services are not covered by Medicaid:

- Orthodontics
- Gold foil restorations, inlay/onlay restorations
- Fixed bridges
- Dental implants
- Cosmetic and elective services

- Sports appliances
- Temporomandibular joint (TMJ) services, bite splints
- Services or surgeries that are investigational or experimental in nature
- Dental devices not approved by the FDA

*Medicaid Provider Manual
Dental Chapter
January 1, 2024, pp 12, 30*

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 an upper arch mouth guard was denied for failure to meet policy requirements. Specifically, Respondent's witness indicated that an upper arch mouth guard is not a covered benefit under the plan.

Petitioner indicated that he is diagnosed with bruxism (grinding teeth) that causes severe jaw and teeth pain, gum recession (exposed tooth roots), tooth abfraction, and attrition. Petitioner indicated that these symptoms have been extremely detrimental to his daily tasks, and he is in extreme pain. Petitioner testified that his condition will soon cause tooth loss and endless pain and suffering if not treated. Petitioner indicated that his dentist highly recommended a night mouth guard to return to full function. (See Exhibit 1.)

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 an upper arch mouth guard. As indicated above, policy clearly states that mouth guards are not covered under the plan. As such, Respondent properly denied Petitioner's 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).

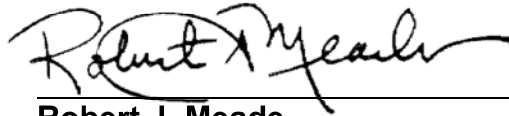
Accordingly, Respondent properly denied Petitioner's request for an upper arch mouth guard.

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 an upper arch mouth guard.

IT IS THEREFORE ORDERED that:

Respondent's decision is **AFFIRMED**.

A handwritten signature in black ink, appearing to read "Robert J. Meade", written over a horizontal line.

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 14th day of June 2024.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic & First Class Mail:

Petitioner

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

Via Electronic Mail:

Community Health Representative

Katie Feher

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DHHS Department Contact

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