[redacted]
[redacted] MI [redacted]

Date Mailed: October 8, 2024
MOAHR Docket No.: 24-008847
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

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

After due notice, a telephone hearing was held on September 18, 2024. Petitioner appeared and testified on her own behalf. Leigha Klaver, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Dianne Redford, Analyst, testified as a witness for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-19. Petitioner did not submit any proposed exhibits.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a night 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 [redacted] year-old Medicaid beneficiary. (Testimony of Petitioner; Testimony of Analyst).

2. On July 11, 2024, the Department received a prior authorization request for a night guard submitted on Petitioner's behalf by her dentist. (Exhibit A, page 16).

3. As part of that request, the dentist indicated that Petitioner had been diagnosed with bruxism, and that she had muscle soreness and generalized attrition in her teeth due to grinding. (Exhibit A, page 16).

4. The dentist also indicated that the night guard would be for grinding and that it was approved by Petitioner's primary insurance, but that Petitioner was over her maximum with her primary insurance for this year. (Exhibit A, page 16).

5. On July 15, 2024, the Department sent Petitioner written notice that the prior authorization request had been denied. (Exhibit A, pages 14-15).

6. With respect to the reason for the denial, the notice stated:

> The policy this denial is based on is Section 8 of the Dental chapter of the Medicaid Provider Manual. Specifically:
>
> - **Non-Covered Services**
> - **Dental Chapter, 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**
> - **Michigan Medicaid Policy MMP 23-13** announced changes to the Medicaid dental program effective April 1, 2023. Providers are advised to check the 2023 Medicaid Policy Bulletins **on or after April 1, 2023** to confirm the onset of implementation and to determine if the service being denied at this time is a covered benefit under MMP 23-13. Medicaid Policy Bulletins are posted at . . .
>
> *Exhibit A, pages 14-15*

7. On August 7, 2024, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding that denial. (Exhibit A, pages 8-13).

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 statutes, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM) and, with respect to dental services, the applicable version of the MPM states:

> **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
>
> Providers must use the current CDT procedure codes when completing both the claim form and MSA-1680-B. Resources are available to assist the provider in determining coverage and coding of specific services, including the Medicaid Code and Rate Reference tool via the external link in CHAMPS and the MDHHS Dental Fee Schedule located on the MDHHS website. (Refer to the Additional Code/Coverage Resource Materials subsection of the General Information for Providers chapter of this manual for additional

information on code/coverage parameters and the Directory Appendix for website information. Billing information can be found in the Billing & Reimbursement for Dental Providers chapter of this manual.)

* * *

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

MPM, July 1, 2024 version
Medical Supplier Chapter, pages 12, 30
(italics added for emphasis)

Here, as discussed above, the Department denied a prior authorization request for a night guard pursuant to the above policies and on the basis that night guards are noncovered TMJ services.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying the prior authorization request. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information available at the time the decision was made.

Given the record and applicable policies in this case, Petitioner has failed to meet that burden of proof and the Department's decision must therefore be affirmed.

The above policies expressly provide that TMJ services are not covered as dental services and it is undisputed in this case that Petitioner's dentist requested a night guard for Petitioner due to Petitioner's diagnosed bruxism, which involves teeth grinding and repetitive jaw-muscle activity. As such, the request was properly denied.

As discussed during the hearing, Petitioner is free to request a night guard as a nondental services for medical reasons, with Petitioner indicating that one was approved through her primary insurance, but that she would have to wait until next year.

Regardless of what other avenues of relief are available, the undersigned Administrative Law Judge is limited to reviewing the request for dental services at issue in this case and, given the applicable policy and undisputed facts, the Department properly denied Petitioner's request for a night guard.

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 prior authorization request.

IT IS, THEREFORE, ORDERED that:

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

Steven Kibit

SK/sj

Steven Kibit
Administrative Law Judge

NOTICE OF APPEAL: Petitioner 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 8th day of October 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:

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