



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR



Date Mailed: October 11, 2024
MOAHR Docket No.: 24-009881
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 and upon Petitioner's request for hearing.

After due notice, a telephone hearing was held on October 9, 2024. [REDACTED], the minor Petitioner's adoptive mother, appeared and testified on Petitioner's behalf. Dr. Frank Manteiga, Senior Clinical Consultant, DentaQuest, appeared and testified on behalf of the Respondent Blue Cross Blue Shield of Michigan – Healthy Kids Dental. (Respondent).

During the hearing, Petitioner's request for hearing was admitted into the record as Exhibit #1, pages 1-19. Respondent did not submit a hearing summary.

ISSUE

Did the Department properly deny Petitioner's request for extraction of third 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 an enrollee in the Healthy Kids Dental (HKD) Program. (Exhibit 1; Testimony).
2. In June of 2024, Petitioner's dental provider submitted a request for Pre-treatment Estimate on Petitioner's behalf to Respondent regarding the proposed extraction of Petitioner's third molars, with accompanying sedation. (Exhibit 1, p 5; Testimony).
3. On June 21, 2024, Respondent sent Petitioner a Notice of Adverse Benefit Determination stating in part:

We have denied all or part of your request. These services have been denied:

D9610 drug injection

D9223 gen anesthesia – each 15 minutes

D9222 general anesthetic – first 15 minutes

D7240 extraction of impacted tooth covered by bone,
Tooth 1

D7240 extraction of impacted tooth covered by bone,
Tooth 16

D7240 extraction of impacted tooth covered by bone,
Tooth 17

D7240 extraction of impacted tooth covered by bone,
Tooth 32

* * *

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.

(Exhibit 1, pp 11-14; Testimony).

4. Petitioner then filed an Internal Appeal with Respondent. (Exhibit 1, p 15; Testimony).
5. On July 31, 2024, Respondent sent Petitioner a Notice of Internal Appeal Decision – Denial stating that her Internal Appeal had been denied for the same reasons stated initially. (Exhibit 1, p 15).
6. After speaking to Respondent's representative, Petitioner's representative had her dentist submit additional information. (Testimony).
7. On August 19, 2024, Respondent issued another Notice of Adverse Benefit Determination, denying the services for the same reasons stated previously. (Exhibit 1, pp 16-18; Testimony).
8. On September 5, 2024, the Michigan Office of Administrative Hearings

and Rules (MOAHR) received Petitioner's request for hearing. (Exhibit 1).

CONCLUSIONS OF LAW

The Medical Assistance Program was 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 the requirement to dental services, the applicable version of the MPM states in part:

SECTION 1 – GENERAL INFORMATION

This chapter applies to dental providers and dental clinics.

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 dental provider within the scope of current accepted dental practice and the limitations of Medicaid policy.

* * *

1.1.D. HEALTHY KIDS DENTAL BENEFIT

MDHHS contracts with dental health plans (DHPs) for the administration of dental services for HKD beneficiaries. Providers must contact the DHP for specific information about covered HKD benefits. (Refer to the **Healthy Kids Dental** section of this chapter for additional program information.)

* * *

SECTION 3 – PRIOR AUTHORIZATION

Prior authorization (PA) is required for services identified in this chapter and the Medicaid Code and Rate Reference tool. For questions about medically necessary dental services beyond those described in this chapter, providers should contact the MDHHS Program Review Division (PRD). (Refer to the Directory Appendix for website and contact information.)

* * *

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.)

* * *

7.7 ORAL SURGERY

Oral surgical procedures are benefits for all beneficiaries. Detailed operative notes or narrative describing the surgical procedure must be retained in the beneficiary's dental record for all surgical procedures, including surgical extractions. Reimbursement for operative or surgical procedures includes local anesthesia, analgesia, and routine postoperative care. Surgical procedures involving the jaw or facial bones are considered a medical benefit, not a dental benefit. (Refer to the Practitioner chapter of this manual for additional information.)

The extraction of teeth for prophylactic or orthodontic purposes is not a covered benefit. Dental providers providing enhanced dental services to CSHCS program beneficiaries should refer to the Children's Special Health Care Services Dental Benefits section of this chapter. (Refer to the Additional Code/Coverage Resource Materials subsection of the General Information for Providers chapter of this manual for additional information regarding coverage parameters.)

7.7.A. EXTRACTIONS

Extractions are covered for Medicaid beneficiaries of all ages. The extraction procedure code submitted for reimbursement must follow the CDT guidelines and is not based on the amount of time required, the difficulty of the extraction, or any special circumstances.

A simple extraction of an erupted tooth includes elevation and/or forceps removal. It includes minor contouring of the bone and closure if needed. An extraction is not a covered benefit if exfoliation is imminent.

A surgical extraction requires the removal of bone and/or sectioning of a tooth and may require the elevation of the mucoperiosteal flap. Minor contouring of the bone and closure of the tissue is included. Multiple extractions in the same quadrant for preparation of complete dentures are not considered surgical extractions unless guidelines for surgical extractions are met. The extraction of an impacted tooth is not covered for prophylactic removal of an asymptomatic tooth that does not exhibit pathology.

*MPM, April 1, 2024 version
Dental Chapter, pages 1, 3, 5, 12, 27-28*

Additionally, consistent with the MPM, the HKD Handbook also provides in part:

Some services are NOT covered.

- Removal of healthy third molars (wisdom teeth)

BCBS Health Kids Dental Handbook, p 14

Here, as discussed above, the Department denied a request for the extraction of third molars, with accompanying deep sedation, pursuant to the above policies and on the basis that the requested extraction of asymptomatic, healthy, third molars is not covered.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of evidence that Respondent 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.

Petitioner's representative testified that this began back in August 2022, or 2023, when Petitioner's dentist recommended that she have all four wisdom teeth removed. Petitioner's representative indicated that each time the request was denied, she had her dentist submit what was requested, but the extractions were still denied. Petitioner's representative indicated that Petitioner had Invisalign braces and now her teeth have moved so much because of the wisdom teeth that she can no longer use her retainer. Petitioner's representative testified that Petitioner wore the Invisalign for two and a half years and her teeth were beautiful.

Given the record and applicable policies in this case, Petitioner has failed to prove, by a preponderance of the evidence, that the Department erred in denying her request. As such, the Department's decision must be affirmed.

As provided in the above policies, the extraction of asymptomatic, healthy, third molars is not covered through Medicaid generally or the HKD program specifically. Here, Respondent's representative testified that Petitioner's wisdom teeth did not meet the

criteria for extraction because there was no current pathology in any of the teeth, the teeth were not infected, and the teeth did not have aberrant positioning, i.e., positioned horizontally. Policy also provides, "The extraction of teeth for prophylactic or orthodontic purposes is not a covered benefit." Here, it appears that the request for extractions is at least partly prophylactic or orthodontic, i.e., the wisdom teeth are ruining the work done by the Invisalign. Unfortunately, Medicaid does not cover extractions for such a purpose.

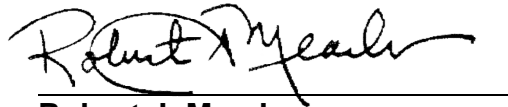
Similarly, while the documentation also identified the teeth in question as impacted, the MPM also specifically provides in Section 7.7.A. that the "extraction of an impacted tooth is not covered for prophylactic removal of an asymptomatic tooth that does not exhibit pathology", and there is no such pathology here and the removal would be prophylactic.

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 request for extraction of third molars.

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

