

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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, MI [REDACTED]

Date Mailed: February 4, 2020
MOAHR Docket No.: 19-012702
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 a hearing.

After due notice, a telephone hearing was held on January 28, 2020. Petitioner appeared and testified on her own behalf. Theresa Root, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Kim Hanson, Medicaid Utilization Analyst, testified as a witness for the Department.

During the hearing, the Department offered one evidence packet/exhibit that was admitted into the record as Exhibit A, pages 1-9. Petitioner did not offer any exhibits.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a lower partial denture?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On October 30, 2019, the Department received a prior authorization request for an upper partial denture and a lower partial denture submitted on Petitioner's behalf by a dentist. (Exhibit A, page 8).
2. As part of that request, Petitioner's dentist indicated that Petitioner had all her anterior teeth and five lower posterior teeth. (Exhibit A, page 8).
3. The request for an upper partial denture was subsequently approved. (Exhibit A, page 7).

4. The notice of approval for the upper partial denture also noted that, effective October 1, 2019 Petitioner had a Medicaid deductible/spend-down and that her eligibility needed to be verified prior to services being provided. (Exhibit A, page 7).
5. On November 18, 2019, the Department sent Petitioner written notice that the request for a lower partial denture had been denied. (Exhibit A, pages 5-6).
6. With respect to the reason for the denial, the notice stated:

The policy this denial is based on is Section 6.6.A of the DENTAL chapter of the Medicaid Provider Manual. Specifically:

- Policy 6.6.A. Complete or partial dentures are authorized if there are less than eight posterior teeth in occlusion (fixed bridges and dentures are to be considered occluding teeth). The beneficiary has ten posterior teeth in occlusion with the placement of an upper partial denture.

Exhibit A, page 5

7. On December 10, 2019, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding the Department's decision. (Exhibit A, page 4).

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, in part, the applicable version of the MPM states:

6.6 PROSTHODONTICS (REMOVABLE)

6.6.A. GENERAL INSTRUCTIONS [CHANGE MADE 4/1/19]

Complete and partial dentures are benefits for all beneficiaries. All dentures require prior authorization (PA). Providers must assess the beneficiary's general oral health and provide a five-year prognosis for the prosthesis requested. An upper partial denture PA request must also include the prognosis of six sound maxillary teeth.

Complete or partial dentures are authorized when one or more of the following conditions exist:

- **One or more anterior teeth are missing.**
- **There are less than eight posterior teeth in occlusion (fixed bridges and dentures are to be considered occluding teeth).**

If an existing complete or partial denture can be made serviceable, the dentist should provide the needed restorations to maintain use of the existing removable prosthesis. This includes extracting teeth, adding teeth to the existing prosthesis, and removing hyperplastic tissue as necessary to restore the functionality of the complete or partial denture.

Before the final impressions are taken for the fabrication of a complete or partial denture, adequate healing necessary to support the prosthesis must take place following the completion of extractions and/or surgical procedures. This includes the posterior ridges of any immediate denture. When an immediate denture is authorized involving the six anterior teeth (cuspid to cuspid), this requirement is waived.

Reimbursement for a complete or partial denture includes all necessary adjustments, relines, repairs, and duplications within six months of insertion. This also includes such services necessary for an

immediate complete (**revised 4/1/19**) denture when authorized. If any necessary adjustments or repairs are identified within the six month time period but are not provided until after the six month time period, no additional reimbursement is allowed for these services.

Complete or partial dentures are not authorized when:

- A previous prosthesis has been provided within five years, whether or not the existing denture was obtained through Medicaid.
- An adjustment, reline, repair, or duplication will make them serviceable.
- A complete or partial denture has been lost or broken beyond repair within five years, whether or not the existing denture was obtained through Medicaid.

When denture services have commenced but irreversible circumstances have prevented delivery, the dentist should bill using the Not Otherwise Classified (NOC) procedure code. A copy of the lab bill and an explanation in the Remarks section of the claim must be included. Providers are paid a reduced rate to offset a portion of the costs incurred. It is the expectation that the probability of removable appliances being delivered and follow-up treatment completed is assessed prior to the initiation of treatment to evaluate whether the treatment is appropriate for the specific patient. Contact the Program Review Division (PRD) regarding the requirements for incomplete dentures. (Refer to the Directory Appendix for contact information.)

*MPM, October 1, 2019 version
Dental Chapter, pages 20-21
(Emphasis added)
(Internal highlighting omitted)*

Here, the Department's witness testified that Petitioner's prior authorization request for a lower partial denture was denied pursuant to the above policy. Specifically, she noted that the request was denied because, per the documentation submitted, Petitioner will

have ten posterior teeth in occlusion, *i.e.* biting together, when considering her four lower posterior teeth and the approved upper denture.

In response, Petitioner testified that both upper and lower denture should have been approved as she needs them both. She also testified that she has not received the approved upper partial denture because her spend-down is too high and she cannot afford to meet it. She further testified that she obtained a spend-down approximately seven years ago and, while the amount of the spend-down was reduced a little after she appealed, the spend-down has always been too high.

The Department's witness then testified that, while the Department noted the existence of the spend-down and the need to verify eligibility on one of the notices, it did not base its decision on the Petitioner's spend-down and that it only denied Petitioner's request in this case pursuant to the above policies.

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

Given the record and applicable policy in this case, Petitioner has failed to meet her burden of proof and the Department's decision must be affirmed. The above policy clearly provides that a lower partial denture would only be authorized in this case if Petitioner has missing anterior teeth or less than eight posterior teeth in occlusion. Here, the information provided as part of the prior authorization request demonstrated both that Petitioner has all her anterior teeth and that she will have ten posterior teeth in occlusion, *i.e.* biting together, when the previously-approved upper partial denture and Petitioner's existing lower posterior teeth are considered. Moreover, while Petitioner testified that she has not received the upper partial denture either because her Medicaid is inactive due to an unmet spend-down that is too high for Petitioner to meet, any dispute over Petitioner's spend-down is beyond the scope of this proceeding and the Department's decision with respect to the sole issue in this case, *i.e.* the denial of the request for a lower partial denture, must be affirmed given the available information and applicable policy.

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**.

SK/sb


Steven Kibit
Administrative Law Judge
for Robert Gordon, 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

DHHS -Dept Contact

Gretchen Backer
400 S. Pine, 6th Floor
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DHHS Department Rep.

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Agency Representative

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