



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 16, 2020
MOAHR Docket No.: 20-000327
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on March 10, 2020. ██████████, the Petitioner, appeared on her own behalf. Allison Pool, Appeals Review Officer, represented the Department of Health and Human Services (Department). Peter Chona, Bromberg Translations, provided interpretation services.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-10.

As a preliminary matter, the Department requested a dismissal asserting that there is no appealable issue because Petitioner had not been denied any dental coverage in the past 90 days. However, the 90-day timeframe for requesting an administrative hearing begins when a written determination notice is issued, which would include notice of the appeal rights. In this case, the Department has not issued a written determination notice to Petitioner for the June 26, 2019, dental prior authorization request. Rather, the Department issued a Request for Additional Information on July 23, 2019, to the dental provider, which specifies that resubmissions are considered new requests. (Exhibit A, p. 8) Accordingly, the June 26, 2019, dental prior authorization request was effectively denied because it would be considered a new request when the dental provider re-submitted with the requested additional information. Further, no written determination notice was issued to Petitioner regarding the June 26, 2019, prior authorization request. Therefore, the 90-day timeframe to request an administrative hearing cannot be applied to this case. Accordingly, the Department's request for a dismissal was denied.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization 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. Petitioner is a Medicaid beneficiary. (Exhibit A, p. 8)
2. On or about June 26, 2019, Petitioner's dentist sought prior approval for a lower partial denture for Petitioner. It appears that the dentist did not complete sections 19 and 22 of the Dental Prior Approval Authorization Request form addressing the status of the current prosthesis. (Exhibit A, p. 8)
3. On July 23, 2019, a Request for Additional Information was sent to the dental provider requesting resubmission of a new prior authorization request form with radiographs attached; requesting that the dental provider complete the information for the status of the current prosthesis in sections #19 and #22 documenting the approximate month and year of previous prosthesis placement and the reason for replacement; and noting the Department's database indicates there is a history of maxillary and/or mandibular prosthesis and the history needs to be clarified. (Exhibit A, p. 8)
4. The July 23, 2019, Request for Additional Information states that resubmissions are considered new requests. (Exhibit A, p. 8)
5. On January 27, 2020, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, pp. 6-7)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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.

1.9 PRIOR AUTHORIZATION

Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services.

*MDHHS Medicaid Provider Manual, Practitioner
Section, (July 1, 2019), p. 4.*

Under the 6.6 Prosthodontics (Removable), the Medicaid Provider Manual sets forth criteria for authorizing complete or partial dentures:

6.6.A. GENERAL INSTRUCTIONS

Complete and partial dentures are benefits for all beneficiaries. All dentures require PA. Remaining maxillary teeth must be structurally and periodontally sound, with good distribution to support a maxillary partial denture for five years. Providers must assess the beneficiary's general oral health and provide a five-year prognosis for the prosthesis requested. The provider is responsible for discussing the treatment plan with the beneficiary, including any applicable frequency limits and other pertinent information related to the proposed services. Documentation of the beneficiary's agreement with the proposed treatment plan must be retained in the beneficiary's dental record.

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 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 rebasing will make a prosthesis 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.)

*MDHHS Medicaid Provider Manual, Dental
Section, (July 1, 2019), pp. 20-21
(underline added by ALJ)*

The Medicaid Provider Manual, Dental Section, addresses prior authorization for dental services, including completion instructions:

2.2 COMPLETION INSTRUCTIONS

The Dental Prior Approval Authorization Request form (MSA-1680-B) is used to obtain authorization. (Refer to the Forms Appendix for instructions for completing the form.) When requesting authorization for certain procedures, dentists may be required to send specific additional information and materials. Based on the MSA-1680-B and the documentation attached, staff reviews and makes an authorization determination. Approved requests are assigned a PA number and notification is sent to the provider. For billing purposes, the PA number must be entered in the appropriate field on the claim form. An electronic copy of the MSA-1680-B is available on the MDHHS website. (Refer to the Directory Appendix for website information.)

MDHHS Medicaid Provider Manual, Dental
Section, (July 1, 2019), p. 4
(underline added by ALJ)

On or about June 26, 2019, Petitioner's dentist sought prior approval for a lower partial denture for Petitioner. It appears that the dentist did not complete sections 19 and 22 of the Dental Prior Approval Authorization Request form addressing the status of the current prosthesis. (Exhibit A, p. 8)

On July 23, 2019, a Request for Additional Information was sent to the dental provider requesting resubmission of a new prior authorization request form with radiographs attached; requesting that the dental provider complete the information for the status of the current prosthesis in sections #19 and #22 documenting the approximate month and year of previous prosthesis placement and the reason for replacement; and noting the Department's database indicates there is a history of maxillary and/or mandibular prosthesis and the history needs to be clarified. (Exhibit A, p. 8)

Petitioner testified that her dentist's office told her they were trying to contact the Department; the Department is not answering; and the Department is not approving the prior authorization request. The dentist's office indicated the denial was because Petitioner received some kind of denture sometime this year. Petitioner stated that her current bridges were made in Lebanon many years ago. Petitioner has only had dental cleanings since she came to this country. (Exhibit A, pp. 6-7; Petitioner Testimony)

While proper written notice of the determination should have been issued to Petitioner, the Department's decision to deny the June 26, 2019, prior authorization request for a lower partial denture was in accordance with the above cited policy because necessary information to determine Petitioner's eligibility for the requested service was not provided. The dental provider did not complete sections 19 and 22 of the Dental Prior

Approval Authorization Request form addressing the status of the current prosthesis. It appears that the Department's database shows Petitioner has a history of a dental prosthesis. The Medicaid Provider Manual Policy indicates that the age and status of Petitioner's current dental prosthesis would affect her eligibility for the requested lower partial denture.

As discussed, if there has been a fraudulent claim for a dental prosthesis, Petitioner should call the fraud hotline to report this so that the claim will be investigated. Petitioner was provided with the telephone number for the Medicaid Fraud Hotline during the hearing proceeding.

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 request for prior authorization for a lower partial denture based on the information the dental provider submitted for the June 26, 2019, prior authorization request.

IT IS, THEREFORE, ORDERED that:

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

CL/dh



Colleen Lack
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
PO Box 30479
Lansing, MI 48909

DHHS Department Rep.

M. Carrier
Appeals Section
PO Box 30807
Lansing, MI 48933

Petitioner

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