



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: June 15, 2020
MOAHR Docket No.: 20-002257
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 June 9, 2020. Attorney Roger West represented Petitioner [REDACTED] (Petitioner). Petitioner testified as a witness on her own behalf. Florence Scott-Emuakpor, represented the Respondent Department of Health and Human Services (DHHS or Department). Erica Titov, Medicaid Utilization Analyst, testified as a witness for the Department.

During the hearing, the Department submitted two evidence packets that were admitted into the record as Exhibit A, pages 1-12, and Exhibit B, pages 1-2. Petitioner did not submit any proposed exhibits.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for complete upper and lower dentures?

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 April 5, 2017, Petitioner received a complete upper denture and a partial lower denture that were paid for by the Department. (Exhibit B, page 2; Testimony of Petitioner; Testimony of Medicaid Utilization Analyst).

¹ Petitioner's request for hearing identified herself as "[REDACTED]". However, her representative subsequently reported during the hearing that Petitioner's name is "[REDACTED]".

2. On January 8, 2020, the Department received a prior authorization request for complete upper and lower dentures submitted on Petitioner's behalf by a dentist. (Exhibit B, page 1).
3. On February 10, 2020, the Department sent Petitioner written notice that the request for complete upper and lower dentures had been denied. (Exhibit A, pages 7-8).
4. 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 not authorized when a previous prosthesis has been provided within five years, whether or not the existing denture was obtained through Medicaid. Per Michigan Department of Health and Human Services database, upper denture and lower partial was placed 04/05/2017.

Exhibit A, page 7

5. On April 3, 2020, 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 6).

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

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, January 1, 2020 version
Dental Chapter, pages 20-21
(Emphasis added)*

Here, the Department's witness testified that Petitioner's prior authorization request for complete upper and lower dentures was denied pursuant to the above policies. Specifically, she noted that the request was denied because, as established by the

Department's records, Petitioner had been previously provided dentures within the past five years.

In response, Petitioner testified that she only went into the dentist in 2017 to have one tooth extracted, but that the dentist subsequently determined that Petitioner needed dentures; removed multiple teeth; and unsuccessfully attempted to place the dentures. Petitioner also testified that the dentures never fit and, despite her complaints and attempts to fix them, she has never been able to wear them. She further testified that she cannot eat normal food, she is losing weight, her gums bleed, and her mouth looks horrible.

The Department's witness then testified that, to the extent Petitioner has an underlying medical condition that necessitates new dentures, Petitioner could submit a new prior request along with a letter of medical necessity from her medical doctor. She also testified that the Department would pay for necessary adjustments or relining, and that, to the extent Petitioner's former dentist was paid for providing services that were not provided, Petitioner could call the Department's fraud hotline.

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 policies in this case, Petitioner has failed to meet her burden of proof and the Department's decision must be affirmed. The above policy expressly provides that complete or partial dentures are not authorized when a previous prosthesis has been provided within five years and it is undisputed in this case that Petitioner had dentures placed within the past five years that were paid for by the Department.

The parties did discuss other avenues of relief that Petitioner could pursue, and she is free to do so. However, with respect to the issue in this case, the Department's decision 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
PO Box 30479
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DHHS Department Rep.

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