

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: July 15, 2020
MOAHR Docket No.: 20-003604
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

On June 9, 2020, Petitioner, [REDACTED], requested a hearing to dispute a prior authorization denial. This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 42 CFR 431.200 *et seq.*, and Mich Admin Code: R 792.11002. After due notice, a telephone hearing was held on July 14, 2020. Petitioner's Authorized Hearing Representative, [REDACTED], appeared and represented Petitioner. Respondent, Department of Health and Human Services (Department), had Theresa Root, Appeals Review Officer, appear as its representative. Respondent had one witness, Kim Hanson, Medicaid Utilization Analyst. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 14-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization for a complete upper 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.
2. On August 5, 2016, Dental Center of Pontiac provided a partial upper denture for Petitioner.

3. On February 6, 2020, Mert Aksu, DDS, requested prior authorization from Medicaid for complete upper and lower dentures for Petitioner.
4. The Department reviewed the prior authorization request and determined that Petitioner had received a prior prosthesis for his upper teeth within the past five years.
5. On April 16, 2020, the Department approved the prior authorization request for a complete lower denture and denied the request for prior authorization for a complete upper denture. The Department cited its reason for denial as Policy 6.6.A of the Medicaid Provider Manual, which prohibits authorization for dentures when a previous prosthesis has been provided within five years.
6. On June 9, 2020, Petitioner filed a hearing request to dispute the Department's denial.

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.

The Medicaid Provider Manual states, "Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of prior authorization is to review the medical need for certain services." *MDHHS Medicaid Provider Manual* (April 1, 2020), Practitioner Chapter, Section 1.9, p. 4. All dentures require prior authorization. *Id.* at Dental Chapter, Section 6.6, p. 20. 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." *Id.* at Dental Chapter, Section 6.6.A, p. 21. Further, complete or partial dentures are not authorized when lost or broken within five years. *Id.*

The Department acted in accordance with its policy when it denied Petitioner's request for prior authorization for a complete upper denture because billing records showed that Petitioner had been provided a partial upper denture within five years of the date of the prior authorization request. Since Petitioner had been provided a previous prosthesis within five years of the date the prior authorization was submitted, the Department was required to deny Petitioner's request. Even though Petitioner's upper denture may not work as intended anymore, the Department was still required to deny Petitioner's request because the Department's records showed that Petitioner had been provided an upper denture within five years of the date of the prior authorization request for an upper denture.

Petitioner argued that all the reasons for denial set forth in Section 6.6.A must be met,

and the Department did not present any evidence to establish that they had all been met. Petitioner's reading of the policy is not correct. Reading the three relevant reasons together reveals that they are each independent. The relevant language states:

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.

Id. at Dental Chapter, Section 6.6.A, p. 21. The lack of the use of "and" or "or" could reasonably cause some confusion when reading this section. However, if all the reasons had to be met as Petitioner argued, then a beneficiary would have to have a denture that is both serviceable and broken beyond repair, which is clearly impossible. Based on this conflict, it is clear that each reason in Section 6.6.A is an independent reason to deny prior authorization for dentures. Therefore, the Department acted properly when it denied Petitioner's prior authorization request based on only one of the reasons.

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.

IT IS ORDERED THAT the Department's decision is **AFFIRMED**.

JK/dh



Jeffrey Kemm
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

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Petitioner

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