



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: August 20, 2020
MOAHR Docket No.: 20-004766
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 19, 2020. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services contracted Medicaid Health Plan (MHP), MeridianHealth, was represented by Katie Tenbusch, Supervisor, Appeals Department. Dr. Mannie Beck, Dental Consultant, Dental Quest, appeared as a witness for the MHP.

During the hearing proceeding, the MHP's Hearing Summary packet was admitted as marked, Exhibit A, pp. 1-38.

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for removal of teeth #1, 16, and 32 (wisdom teeth)?

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 adult Medicaid beneficiary enrolled in the MHP, date of birth September 25, 1997. (Exhibit A, p. 11)
2. On or about June 4, 2020, the MHP's vendor, DentaQuest, received a prior authorization request for removal of all four wisdom teeth (teeth #1, 16, 17, and 32) for Petitioner. (Exhibit A, pp. 11--14)

3. On June 4, 2020, DentaQuest determined that the request for removal of tooth #17 would be approved but the request for removal of teeth #1, 16, and 32 would be denied. (Exhibit A, pp. 15-16)
4. On June 4, 2020, the MHP issued a Notice of Adverse Benefit Determination stating the prior authorization request for extraction of teeth #1, 16, and 32 would be denied because based on the x-ray and information from the dentist, it did not appear that these teeth needed to be removed. (Exhibit A, pp. 17-20)
5. On July 6, 2020, the MHP received an internal appeal request contesting the denial of the requested extractions for teeth # 1, 16, and 32. (Exhibit A, pp. 22-24)
6. On July 15, 2020, a DentaQuest Dental Consultant reviewed the request and issued a recommendation upholding the denial. To qualify for this benefit under this plan, a case must demonstrate tooth specific evidence of current pathology, infection, aberrant position, and/or continuous and/or reoccurring pain beyond normal eruption. The plan also requires root formation to be radiographically demonstrated. The documentation submitted did not demonstrate that the required criteria had been met at that time. Prophylactic removal of third molars is not a covered benefit. (Exhibit A, pp. 25-26)
7. On July 21, 2020, the MHP issued a Notice of Internal Appeal Decision-Denial stating the removal of teeth #1, 16, and 32 was denied. The rules for this service require notes that show these teeth are not healthy (have disease or infection), that the position of the teeth are not normal to let them break through the gums on their own, or that you have pain that is more than what you would feel if the teeth came through the gums on their own. The notes also need to show a picture of the teeth (x-ray) to show that the roots of the teeth are formed. The notes do no show this. (Exhibit A, pp. 27-36)
8. On July 28, 2020, Petitioner filed a hearing request with the Michigan Office of Administrative Hearings and Rules (MOAHR) contesting the MHP's determination. (Exhibit A, pp. 2-5)

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.

On May 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans.

The Respondent is one of those MHPs and, as provided in the Medicaid Provider Manual (MPM), is responsible for providing covered services pursuant to its contract with the Department:

1.2.A. MEDICAID HEALTH PLANS

MDHHS contracts with Medicaid Health Plans (MHPs) to provide services to Medicaid beneficiaries. MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the Medicaid Health Plans Chapter of this manual for additional information.)

Although MHPs must provide the full range of covered services, MHPs may also choose to provide services over and above those specified. MHPs are allowed to develop prior authorization (PA) requirements and utilization management and review criteria that differ from Medicaid requirements.

*MPM, Healthy Michigan Plan Chapter,
July 1, 2020, pp. 1-2*

For Healthy Michigan Plan (HMP) beneficiaries, the covered services include dental services.

5.1 DENTAL

Beneficiaries enrolled in a health plan will receive their dental coverage through their health plan. Each health plan contracts with a dental provider group or vendor to provide dental services administered according to the contract. The contract is between the health plan and the dental provider group or vendor, and beneficiaries must receive services from a participating provider to be covered. Questions regarding eligibility, prior authorization or the provider network should be directed to the beneficiary's health plan. It is important to verify eligibility at every appointment before providing dental services. Dental services provided to an ineligible beneficiary will not be reimbursed.

For those beneficiaries who are not enrolled in a health plan, dental services will be provided by enrolled dental providers through the Medicaid FFS program.

For dental program coverage policy, refer to the Dental Chapter of this manual. The Dental Chapter also contains information on the Healthy Kids Dental benefit, as applicable.

*MPM, Healthy Michigan Plan Chapter,
July 1, 2020, p. 10
(Underline added by ALJ)*

The Dental Chapter of the MPM addresses HMP dental and extractions:

1.1.D. HEALTHY MICHIGAN PLAN DENTAL

Beneficiaries enrolled in a health plan will receive their dental coverage through their health plan. Each health plan contracts with a dental provider group or vendor to provide dental services administered according to the contract. The contract is between the health plan and the dental provider group or vendor, and beneficiaries must receive services from a participating provider to be covered. Questions regarding eligibility, prior authorization or the provider network should be directed to the beneficiary's health plan.

6.7 ORAL SURGERY

Oral surgical procedures are benefits for all beneficiaries.

The extraction of teeth for orthodontic purposes is not a benefit. Reimbursement for operative or surgical procedures includes local anesthesia, analgesia, and routine postoperative care.

Surgical procedures such as surgeries of the jaw or facial bones are considered a medical benefit, not a dental benefit.

6.7.A. EXTRACTIONS

An extraction of an erupted tooth includes elevation and/or forceps removal. It includes minor contouring of the bone and closure if needed.

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.

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. An extraction is not a covered benefit if exfoliation is imminent.

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 asymptomatic teeth that exhibit no overt pathology.

*MPM, Dental Chapter,
July 1, 2020, pp. 2 and 23
(Underline added by ALJ)*

The DentaQuest Clinical Criteria for Surgical Extraction states:

14.01 Criteria for Dental Extractions

Not all procedures require authorization.

Documentation needed for authorization procedure:

- Appropriate radiographs clearly showing the adjacent and opposing teeth should be submitted for authorization review: bitewings, periapicals or panorex.
- Treatment rendered under emergency conditions, when authorization is not possible, requires the appropriate radiographs clearly showing the adjacent and opposing teeth be submitted with the claim for review for payment.
- Narrative demonstrating medical necessity.

(Exhibit A, p. 37)

In this case, DentaQuest received a prior authorization request for removal of all four wisdom teeth for Petitioner. The consultation note indicated Petitioner stated her wisdom teeth are shifting her other teeth and she had complaints of discomfort and pressure in regards to the wisdom teeth. The exam findings indicate teeth #1, 16, 17, and 32 were impacted with redness around the gums and increased probing depths. There was pain on palpation of the wisdom teeth. (Exhibit A, pp. 12-13) The Dental Consultant explained that the consultation note did not show any pathology or pain/discomfort/pressure beyond what would be expected with eruption. (Dental Consultant Testimony) The included x-ray shows tooth 17 was almost completely sideways, however teeth 1, 16, and 32 are fairly straight and are not really malposed. (Exhibit A, p. 14; Dental Consultant Testimony) The Dental Consultant also clarified that the language in the denials regarding the need for root formation to be radiographically demonstrated was probably part of boilerplate language that was included, but was not what caused the denial in this case. The submitted x-ray does show root formation. (Exhibit A, p. 14; Dental Consultant Testimony) Accordingly, the MHP only approved the extraction of tooth #17, which was based on the aberrant position demonstrated by x-ray. (Exhibit A, p. 15; Dental Consultant Testimony) The MHP denied the extractions for teeth # 1, 16, and 32 because the documentation submitted with this request did not show tooth specific evidence of current pathology, infection, aberrant position, and/or continuous and/or reoccurring pain beyond normal eruption. (Exhibit A, pp. 15-17, 25, and 28; Dental Consultant Testimony)

Petitioner stated that she has extreme pain with her wisdom teeth. Petitioner cannot eat certain foods because they are so sensitive. A lot food is getting stuck in the pockets, which is a risk for cavity. Petitioner noted there are risks with not extracting all of the wisdom teeth, such as cysts, decay, and gum disease. It does not make sense to wait until the teeth develop disease, pathology, or infection to remove them, that is the worst-case scenario. The dentist and oral surgeon have also advised Petitioner not to have just one of the wisdom teeth removed. When the top wisdom tooth comes in without anything underneath it, it will cause even more problems including alignment issues and pain. The whole mouth is off balance. Petitioner does not have the means to pay out of pocket for the extraction of the other three wisdom teeth. (Exhibit A, pp. 2-4 and 23-24; Petitioner Testimony)

Overall, the evidence supports the MHP's determination to deny Petitioner's prior authorization request for the extractions for teeth # 1, 16, and 32 for Petitioner. The records submitted with this request did not establish that the extraction criteria were met for teeth # 1, 16, and 32. The submitted records did not show that there is severe pain in these teeth, that any of these teeth are in a position where they would not break through the gum by itself, and/or the gums or bone around the teeth are diseased. The records submitted with this request do not document the severity of pain and symptoms Petitioner described in her appeals and testimony. (2-4 and 23-24; Petitioner Testimony) The above cited policy from the Dental chapter of the Medicaid Provider Manual (MPM) is clear that the extraction of an impacted tooth is not covered for prophylactic removal of asymptomatic teeth that exhibit no overt pathology.

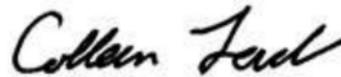
Accordingly, the MHP's denial must be upheld based on the documentation submitted with this request.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the MHP properly denied Petitioner's request for removal of teeth #1, 16, and 32 (wisdom teeth) based on the documentation submitted with this request.

IT IS, THEREFORE, ORDERED that:

The Medicaid Health Plan'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

Managed Care Plan Division
CCC, 7th Floor
Lansing, MI 48919

Community Health Rep

Meridian Health Plan of Michigan Inc.
Appeals Section
PO Box 44287
Detroit, MI 48244

Petitioner

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[REDACTED] MI [REDACTED]