



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: December 22, 2020  
MOAHR Docket No.: 20-006811  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Corey Arendt**

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on December 15, 2020. Mary Yancy, Attorney, appeared on behalf of Petitioner. [REDACTED] Petitioner's legal guardian, appeared as a witness for Petitioner. Nicole Sanford, Attorney, appeared on behalf of Respondent, Delta Dental (Department).

Exhibits:

Petitioner	None
Department	A – Hearing Summary
Judge	1 – Petitioner Request for Hearing <sup>1</sup>

**ISSUE**

Did the Department properly deny the Petitioner's request to pay a dental bill related to September 15, 2020 service date?

**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 enrolled with Department and in their Tristate Advantage network. (Exhibit A; Testimony).
2. Prior to December 19, 2019, Petitioner's Guardian contacted Delta Dental and asked about in-network providers. (Testimony).

<sup>1</sup> Admitted following the hearing. The document is part of the file and was submitted by the Petitioner and later forwarded to the Respondent in preparation for the hearing.

3. On or around December 19, 2019, Delta Dental sent Petitioner's Guardian a list of in-network providers. (Testimony).
4. In-network providers are individual dentists and not facilities. (Testimony).
5. On December 19, 2019, Petitioner received dental services from Dental Care of Michigan, [REDACTED]. The services were provided by an in-network provider with an NPI number of 1972028488. (Exhibit A, p 3; Testimony.)
6. On December 20, 2019, Petitioner received from Department, an Explanation of Benefits (EOB) addressing the December 19, 2019 service. The EOB indicated Petitioner had no patient payment due. (Exhibit A, p 3; Testimony.)
7. On September 15, 2020, Petitioner received dental services from Dental Care of Michigan, [REDACTED]. The services were provided by an out-of-network provider with an NPI number of 1730673039. (Exhibit A, p 6; Testimony.)
8. On September 15, 2020, Petitioner received from Department, an EOB addressing the September 15, 2020 service. The EOB indicated Petitioner had a patient pay amount of \$970.00 as a result of the procedures not being a covered benefit when rendered by a dentist who does not participate in the Tristate Advantage network. (Exhibit A, p 7; Testimony.)
9. On September 16, 2020, Petitioner received from Department, a Notice of Denial of Payment. The notice indicated Department denied payment for medical services as the services were not a covered benefit when they were rendered by a dentist who did not participate with Tristate Advantage. (Exhibit A, p 11; Testimony.)
10. Prior to October 14, 2020, Petitioner requested a local level appeal. (Exhibit 1.)
11. On October 14, 2020, Department sent Petitioner a Notice of Appeal Decision. The notice specifically stated:

We denied your appeal for the service/item listed above because:

The services were billed by Dr. Saif Shounia. Dr.[.] Shounia does not participate with [REDACTED] plan. [REDACTED] plan does not allow payment to be made for services billed by non-participating providers. All dental benefit plans have exclusions. They are created when the plan is made. Delta Dental cannot change those exclusions. The exclusion that applies to this claim is noted in your MI Health Link Plan Dental Handbook. It says:

“How to use MI Health Link Plan

2) Make an appointment with a Dentist listed in the Tristate Advantage Network Dentist Directory. Tell the Dentist you are covered by the MI Health Link Plan dental program and ask if he or she is a Participating Dentist. (Checking on this is important because services are not covered if a Non-participating Dentist provides them.)<sup>2</sup>

12. On November 6, 2020, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit 1.)

### **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 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.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. The Contractor must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 2.024.<sup>3</sup>

1. The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:

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<sup>2</sup> Exhibit 1.

<sup>3</sup> Section 1.022(E)(1), Covered Services. MDCH contract (Contract) with the Medicaid Health Plans, October 1, 2010.

- Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
  - A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
  - Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
  - An annual review and reporting of utilization review activities and outcomes/interventions from the review.
  - The UM activities of the Contractor must be integrated with the Contractor's QAPI program.
2. Prior Approval Policy and Procedure: The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.<sup>4</sup>

Unrefuted testimony on the record is that the Department's handbook was approved by the Department. Specifically, in this case, the handbook states "[s]ervices will not be covered unless your dentist participates in the TriState Advantage network."<sup>5</sup>

In this case, the contract provisions allow Prior Approval procedures for utilization management purposes. Additionally, the Department witness explained that their handbook policies require a member to obtain medical services from providers within their network of providers.

The Department and this Administrative Law Judge are bound by Medicaid and MDHHS policies. In addition, this Administrative Law Judge possesses no equitable jurisdiction to grant exceptions to Medicaid or MDHHS policies. The Department provided sufficient

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<sup>4</sup> Section 1.022(AA), Utilization Management, MDCH contract (Contract) with the Medicaid Health Plans, October 1, 2010.

<sup>5</sup> See Exhibit A, p 17.

evidence that it implemented their policies in accordance with MDHHS policy; therefore, I find their actions to deny Petitioner's request to be proper.

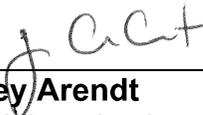
**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Petitioner's request to have his September 20, 2020 dental bills paid.

**IT IS THEREFORE ORDERED** that:

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

CA/dh

  
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**Corey Arendt**  
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**

Delta Dental  
c/o Kristen Smith  
Compliance Officer  
Lansing, MI 48864

**Petitioner**

[REDACTED]  
[REDACTED] MI [REDACTED]

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