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Date Mailed: January 26, 2021
MOAHR Docket No.: 20-007307
Agency No.: 55686152
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 upon the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on January 6, 2021. Petitioner appeared and testified on her own behalf. Nicole Sandstrom, Registered Nurse (RN)/Clinical Services Manager, appeared on behalf of Upper Peninsula Health Plan ("Respondent" or "UPHP"), the Respondent Integrated Care Organization (ICO). Dr. Brian Jacobson, Dental Director for Delta Dental, testified as a witness for Respondent.

During the hearing, Respondent submitted an evidence packet that was admitted into the record as Exhibit A, pages 1-79. Respondent also forwarded two videos submitted by Petitioner that were entered into the record as Exhibits B and C.

ISSUE

Did the Respondent MHP properly deny Petitioner's request for an 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. Respondent is an Integrated Care Organization (ICO) contracted by the Michigan Department of Health and Human Services (Department or MDHHS) and the Centers for Medicare & Medicare Services (CMS) to provide covered services through the MI Health Link managed care program.

2. Petitioner has been enrolled in the MI Health Link program and authorized

for services through Respondent. (Exhibit A, pages 14, 16).

3. On November 19, 2019, Petitioner underwent teeth extraction and the placement of upper denture at the Bay Mills Dental Clinic Health, ("Bay Mills") with the dental services approved by and paid for by Respondent. (Exhibit A, pages 22, 64-65; Testimony of Petitioner).

4. The original plan was for Petitioner to receive both upper and lower dentures at the same time, but Petitioner subsequently decided, against her dentist's advice, to just get the upper denture first. (Exhibit A, page 71; Testimony of Petitioner).

5. Petitioner subsequently reported having a hard time inserting her denture and soft tissue problems, and a denture adjustment was completed. (Exhibit A, pages 22, 73).

6. In January of 2020, Petitioner paid out-of-pocket for a new upper denture in Mexico. (Testimony of Petitioner).

7. In May or June of 2020, Bay Mills modified the upper denture at Petitioner's request. (Testimony of Petitioner).

8. However, Petitioner was not satisfied with the modification. (Testimony of Petitioner).

9. Petitioner then paid out-of-pocket for another denture through Bay Mills, but it did not fit either and Bay Mills subsequently reimbursed her for it. (Testimony of Petitioner).

10. On August 4, 2020, Petitioner also filed a grievance with Respondent regarding her upper dentures through Bay Mills. (Exhibit A, page 56).

11. On August 14, 2020, Respondent sent Petitioner a Final Response to Grievance. (Exhibit A, pages A, pages 56-60).

12. In that response, Respondent wrote in part:

> **Grievance investigation**
>
> We took the following steps to review your grievance:
>
> UPHP asked Delta Dental to look into the dental problems that you have had with [Bay Mills]. Delta Dental got your records from [Bay Mills]. Delta Dental got your dental records from [Bay Mills] and had their dentist review them.

What we found

Based on our review, we discovered the following about your grievance:

Delta Dental informed UPHP that their dentist did not find an issue with the care you got from [Bay Mills]. Delta Dental's dentist said that a reline (fixing the tissue side of the denture with new material to fill the space between the original denture and altered tissue) could have been tried after 6 months instead of a remake of the denture.

Action that we took

UPHP reviewed the information from Delta Dental and are currently processing your request to cover a new pair of dentures. UPHP will send you a letter once a decision has been made.

Exhibit A, pages 56-57

13. In October of 2020, Petitioner requested coverage by Respondent of a new upper denture, to be provided by Straits Area Dental P.C. (Exhibit A, pages 15-16; Testimony of Petitioner).

14. On October 14, 2020, Respondent sent Petitioner a Notice of Denial of Medical Coverage stating that Petitioner's request for an upper denture had been denied. (Exhibit A, pages 9-12).

15. With respect to the reason for the denial, the notice stated:

> The UPHP MI Health Link Member Handbook Chapter 4: Benefits Chart 56 under Dental Services: Complete or partial dentures are covered once every five years.
>
> The Delta Dental MI Health Link Plan Dental Handbook "What Delta Dental MI Health Link Benefits Cover" pages 3-4 that complete and partial dentures are covered 1 (once) in 5 years.
>
> Delta Dental records show that your upper denture was received November 19, 2019. Since you have had your dentures less than

> five years, a new upper denture is not a covered benefit at this time.

Exhibit A, page 9

16. On October 23, 2020, Petitioner requested an Internal Appeal with Respondent. (Exhibit A, pages 18, 24-36, 46-47).

17. On November 20, 2020, Respondent sent Petitioner a Notice of Appeal Decision stating that Petitioner's appeal had been thoroughly considered and was being denied. (Exhibit A, page 18-21).

18. With respect to the reason for the denial the notice stated:

> Your appeal was reviewed by a Delta Dental consultant who is a dentist. The dentist looked at all your written concerns, videos, email correspondence with UPHP, and photographs. They do not show there is a quality of care issue with your denture. Delta Dental will not take back the money paid for your first denture from Bay Mills. Per the The UPHP MI Health Link Member Handbook Chapter 4: Benefits Chart 56 under Dental Services: Complete or partial dentures are covered once every five years. The Delta Dental MI Health Link Plan Dental Handbook "What Delta Dental MI Health Link Benefits Cover" pages 3-4 states that complete and partial dentures are covered 1 (once) in 5 years. You received your upper denture on November 19, 2019. Since you have had dentures less than five years, a new upper denture is not a covered benefit at this time.

Exhibit A, page 18

19. On December 22, 2020, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter regarding Respondent's decision.

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.

As discussed above, Petitioner has been authorized for services through Respondent pursuant to the MI Health Link program. With respect to that program, the applicable version of the Medicaid Provider Manual (MPM) states in part:

> **SECTION 1 – GENERAL INFORMATION**
>
> Effective March 1, 2015, the Michigan Department of Health and Human Services (MDHHS), in partnership with the Centers for Medicare & Medicaid Services (CMS), implemented a new managed care program called MI Health Link. This program integrates into a single coordinated delivery system all physical health care, pharmacy, long term supports and services, and behavioral health care for individuals who are dually eligible for full Medicare and full Medicaid. The goals of the program are to improve coordination of supports and services offered through Medicare and Medicaid, enhance quality of life, improve quality of care, and align financial incentives.
>
> MDHHS and CMS have signed a three-way contract with managed care entities called Integrated Care Organizations (ICOs) to provide Medicare and Medicaid covered acute and primary health care, pharmacy, dental, and long term supports and services (nursing facility and home and community based services). The MI Health Link program also includes a home and community-based services (HCBS) waiver for MI Health Link enrollees who meet nursing facility level of care, choose to live in the community rather than an institution, and have a need for at least one of the waiver services as described in this chapter. This waiver is called the MI Health Link HCBS Waiver.
>
> The Michigan Prepaid Inpatient Health Plans (PIHPs) in the four demonstration regions are responsible for providing all Medicare and Medicaid behavioral health services for individuals who have mental illness, intellectual/developmental disabilities, and/or substance use disorders. The Eligibility and Service Areas section provides a list of the regions and related counties.
>
> * * *

SECTION 5 – COVERED SERVICES

MI Health Link offers the following services:

- Medicare covered services, including pharmacy
- Medicaid State Plan services, including personal care services and hearing aid coverage
- *Dental services*
  - *Equivalent to the Medicaid adult dental benefit as described in the Dental Chapter of this manual.*
- Long Term Supports and Services (LTSS)
  - Nursing facility services
  - State Plan personal care services
  - Supplemental Services for individuals who live in the community and do not meet nursing facility level of care as determined by the LOCD.
  - MI Health Link HCBS Waiver services for individuals who live in the community and meet nursing facility level of care as determined by the LOCD
- Services provided through PIHPs for individuals' needs related to behavioral health (BH), intellectual/developmental disability (I/DD) and substance use disorders (SUD)

The MI Health Link program waives the requirement for a three-day hospital stay prior to receiving rehabilitation or skilled care in a Michigan licensed nursing facility. Admission requirements include a physician-written order for nursing facility services, a completed LOCD, and a completed Pre-Admission Screening and Resident Review (PASRR).

MPM, October 1, 2020 version
MI Health Link Chapter, pages 1, 5
(Italics added for emphasis)

Moreover, with respect to the Medicaid adult dental benefit referenced in the above policy, the Dental Chapter of the MPM states in part:

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 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, October 1, 2020 version
Dental Chapter, pages 20-21
(Italics added for emphasis)

Similarly, Respondent's MI Health Link Member Handbook likewise provides that complete or partial dentures are only covered once every five years:

> **Dental Services**
>
> UPHP MI Health Link will pay for the following services:
>
> - Examinations and evaluations are covered once every six months
> - Cleaning is a covered benefit once every six months
> - Silver diamine fluoride treatment is covered with a maximum of six applications per lifetime
> - X-rays
>   - Bitewing x-rays are a covered benefit only once in a 12-month period
>   - A panoramic x-ray is a covered benefit once every five years
>   - A full mouth or complete series of x-rays is a covered benefit once every five years
> - Fillings
> - Tooth extractions
> - *Complete or partial dentures are covered once every five years*

Exhibit A, page 4
(Italics added for emphasis)

Here, Petitioner's request for a new denture was denied pursuant to the above policies. Specifically, as argued by Respondent's representative and testified to a reviewing dentist, the request was denied because Petitioner had been previously provided such dentures within the past five years.

The reviewing dentist also testified that he reviewed Petitioner's grievance and that there were no quality-of-care issues with respect to the denture Respondent paid for and Petitioner received within the past five years. In particular, he testified that any problems with the denture were most likely caused by the fact that it is an upper denture originally designed to fit with a lower denture that Petitioner was to receive at the same

time, but that Petitioner later declined, against the advice of her dentist, to receive that approved lower denture at the same time she received the upper denture. The reviewing dentist further testified that it is critical to have occlusion with dentures, and that Petitioner's upper denture being loose was predictable when it was fabricated to occlude with a lower denture that Petitioner chose not to receive. He also testified that a dentist can still try to make that upper denture fit if that is what Petitioner wanted, and that the dentist in this case acted within generally accepted practices.

In response, Petitioner testified regarding her history with dentures, including Respondent paying for dentures that she has never been able to wear because they never fit, despite attempts at modifying them, and dentures that Petitioner has paid for out-of-pocket. She also testified that she filed a grievance with Respondent regarding the initial denture she received through Bay Mills but has not been able to wear; and that she wants Respondent to take back the payment it made for that denture and pay for a new one through another provider. She further testified that, while she did decide against receiving the approved lower denture at the same time as her upper denture like planned, she also let the dentist know beforehand. Petitioner also provided two videos in which she discussed and demonstrated her complaints about her denture.

Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred in denying her request. Moreover, the undersigned Administrative Law Judge is limited to reviewing Respondent'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 Respondent's decision must be affirmed.

The above policies, including the Dental Chapter of the MPM, which Respondent is required to follow when providing dental services through the MI Health Link Program, expressly provide 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 an upper denture placed within the past five years.

Moreover, while Petitioner testified that her initial denture was not properly placed, and that Respondent should therefore take back the money it paid for the denture and approve a new one, that testimony and argument is unsupported by the remainder of the record. In particular, in its response to Petitioner's grievance and in the testimony of the reviewing dentist, Respondent credibly and fully established that, even if there were some issues with Petitioner's denture, as expected given her choice to proceed only with the upper denture despite the upper and lower dentures being approved and designed together, there were no quality-of-care concerns with respect to the upper denture that could warrant taking back payment for the first denture.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Respondent properly denied Petitioner's request for an upper denture.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED.**

SK/sb

Steven Kibit
Administrative Law Judge
for Elizabeth Hertel, 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
MDHHS-MCPD@michigan.gov

Petitioner

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