

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED], MI [REDACTED]

Date Mailed: March 25, 2021
MOAHR Docket No.: 21-000530
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 March 23, 2021. Petitioner appeared and testified on his own behalf. Allison Pool, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Carolyn Malhoit, Utilization Analyst, testified as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's prior authorization request 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. On May 25, 2017, Petitioner received a complete upper denture that was paid for by the Department. (Exhibit A, pages 9-10; Testimony of Utilization Analyst).
2. On December 14, 2020, the Department received a prior authorization request for a complete upper denture that was submitted on Petitioner's behalf by a dentist. (Exhibit A, pages 11-13).
3. On January 11, 2021, the Department sent Petitioner written notice that the request 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 MDHHS Database, a D5110 was placed 05/25/2017.
- Policy 6.6.A. Complete or partial dentures are not authorized when a complete or partial denture has been lost or stolen beyond repair within five years, whether or not the existing denture was obtained through Medicaid.

Exhibit A, page 7

5. On February 19, 2021, 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 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
(Emphasis added)*

Here, the Department's witness testified that Petitioner's prior authorization request for a complete upper denture 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 such a denture within the past five years.

In response, Petitioner testified that his dentist recommended him for surgery at the same time the dentures were being made and that, following the surgery, the dentures did not fit, and Petitioner could not even drink when wearing them. Petitioner also testified that he filed a complaint against his dentist, but that the dentures were not fixed until he went to another dentist, who was able to make them wearable at least. Petitioner could not say when the dentures were provided or when he underwent surgery; and he identified various years at different times during the hearing, including 2015, 2016 and 2017.

The Department's witness then testified that she has not seen any record of a complaint filed by Petitioner. She also gave Petitioner a telephone number for the Medicaid Fraud

Hotline. She further testified that Petitioner and his dentist could make a new prior authorization request along with medical documentation if he had further information to provide.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his 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 his 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 the record in this case demonstrates that Petitioner had dentures placed within the past five years that were paid for by the Department. The Department's records are clear and, while Petitioner indicated at times that he received his dentures in 2015, he also was not sure and testified that he received them in 2017 too.

The parties did discuss other avenues of relief that Petitioner could pursue, and he 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 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

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Petitioner

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