[redacted]
[redacted]
[redacted], MI [redacted]

Date Mailed: April 29, 2021
MOAHR Docket No.: 21-001476
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 42 CFR 431.200 *et seq*. and 42 CFR 438.400 *et seq*. upon Petitioner's request for a hearing.

After due notice, a hearing was held on April 28, 2021. Petitioner appeared and testified on his own behalf. Nicole Sanford, Deputy General Counsel, appeared and testified on behalf of Respondent, Delta Dental of Michigan.

ISSUE

Did the Respondent properly deny Petitioner's prior authorization request for partial dentures?

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 [redacted]-year-old Medicaid beneficiary, born [redacted] who is enrolled in the Respondent Healthy Michigan Dental Plan. (Exhibit A, p 2; Testimony)

2. On or about February 19, 2020, Respondent received a pre-treatment estimate from Petitioner's dentist for a new partial denture. (Exhibit A, pp 10-12; Testimony)

3. On April 20, 2020, Respondent reviewed the request and determined that Petitioner was not eligible for a new partial denture because he received a partial denture in June 2019 and policy indicates that new dentures are only covered once every five years. (Exhibit A, pp 13-15; Testimony)

4. On April 20, 2020, Respondent sent Petitioner and his provider written notice that the prior authorization request was denied because new

dentures are only covered once every five years and Petitioner previously received dentures in June 2019. (Exhibit A, pp 16-19; Testimony)

5. On January 12, 2021, Petitioner requested an internal appeal.[1] (Exhibit 1, p 2; Testimony)

6. On February 11, 2021, Respondent sent Petitioner and his provider written notice that the internal appeal was denied, and that the original denial of a new partial denture was upheld. (Exhibit 1, p 2; Testimony)

7. On March 26, 2021, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's 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.

In 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 (MHP).

The Respondent is the dental contractor for 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:

> The Michigan Department of Health and Human Services (MDHHS) contracts with Medicaid Health Plans (MHPs), selected through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. The MHP contract, referred to in this chapter as the Contract, specifies he beneficiaries to be served, scope of the benefits, and contract provisions with which the MHP must comply. Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is available on the MDCH website. (Refer to the Directory Appendix for website information.)
>
> MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the General Information for

[1] Respondent did not raise the timeliness of Petitioner's internal appeal request as an issue.

> Providers and the Beneficiary Eligibility chapters of this manual for additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those specified. MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements. The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.
>
> *Medicaid Provider Manual*
> *Medicaid Health Plan Chapter*
> *January 1, 2020, p 1*
> *Emphasis added*

Under the general policy instructions for Medicaid related dental services the MPM sets replacement schedules for denture repair and replacement:

> **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. Complete upper and lower dentures PA request must also include the prognosis of six sound 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).
> - An existing complete or partial denture cannot be made serviceable through repair, relining, adjustment, or duplicating (rebasing) procedures.
>
> 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 upper 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.
- Replacement of a complete or partial denture that has been lost or broken beyond repair is not a benefit 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.)

Medicaid Provider Manual
Dental Chapter
January 1, 2020, pp 19-20
Emphasis added

Pursuant to the above policy and its contract with the Department, Respondent has developed a prior authorization process subject to the limitations and restrictions described in Respondent's Medicaid agreement, the MPM, Medicaid bulletins, and other directives.

Respondent's witness testified that Petitioner's request for a new partial denture was denied because policy only allows replacement of dentures every five years and Petitioner was provided new dentures in June 2019.

Petitioner testified that he was born missing nine adult teeth and when his baby teeth were lost in those places there were no adult teeth to replace them. Petitioner indicated that up until 2019 be had two baby teeth serving as his bottom molar, but that one of those teeth then became abscessed and had to be extracted. Petitioner testified that it was at this time that he received the first partial denture through Respondent. Petitioner indicated that there was a short period of time then when he had a different dental insurance and during that time the other baby tooth became abscessed and had to be extracted. Petitioner testified that it took a couple months for that extraction to heal and by the time it did, his first partial denture no longer fit because his teeth had shifted so much. Petitioner indicated that he tried to return to his dentist to have the first partial denture adjusted but was told it was not possible because his teeth had shifted so much.

Petitioner testified that he is a [redacted]-year-old college student and does not have a lot of money; certainly not enough to pay for a new partial denture on his own. Petitioner indicated that he takes care of his teeth and finds himself in this situation through no fault of his own. Petitioner testified that he understands the rules, but his situation is unique. Petitioner testified that he is now only able to eat certain foods, his appetite is affected as is his quality of life. Petitioner also indicated that his remaining teeth are degrading because so much pressure is put on them.

Given the above policy and evidence, Petitioner has failed to prove by a preponderance of the evidence that Respondent erred in denying the prior authorization request for a new partial denture. As indicated above, policy clearly states that a beneficiary only qualifies for new dentures once every five years and Petitioner had new dentures placed in June 2019. As such, Petitioner will not be eligible for new dentures until June 2024. While the undersigned can certainly sympathize with Petitioner's situation, the undersigned has no authority to ignore clear policy and no equitable powers to grant Petitioner any relief.

Petitioner may want to check into free or reduced cost dental services in the [redacted] area, including Cherry Health – Ferguson Dental Center [redacted] or Cherry Health – Cherry Street Health Center [redacted]. Both locations provide a sliding fee payment scale for those without insurance.

Accordingly, Respondent properly denied Petitioner's request for a new partial 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 prior authorization request for a new partial denture.

IT IS THEREFORE ORDERED that:

Respondent's decision is AFFIRMED.

RM/sb

Robert J. Meade
Administrative Law Judge

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

Community Health Rep

Delta Dental
c/o Compliance Officer
Lansing, MI
48864

Petitioner

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