

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: June 9, 2021
MOAHR Docket No.: 21-002166
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

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

After due notice, a telephone hearing was held on June 8, 2021. Petitioner appeared and testified on her own behalf. Emily Piggott, Appeals Review Officer, represented Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Carolyn Malhoit, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for complete upper 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]. (Exhibit A, p 7; Testimony)
2. On March 4, 2021, Petitioner's dentist sought approval for complete upper dentures for Petitioner. (Exhibit A, p 7; Testimony)
3. Records show that Petitioner received an upper partial denture on or about May 16, 2017. (Exhibit A, pp 11-12; Testimony)
4. On April 19, 2021, the request for complete upper dentures was reviewed and denied because Petitioner received dentures within the last five years. (Exhibit A, pp 5-6; Testimony)

5. On April 19, 2021, the Department sent Petitioner a Notice of Denial, including Petitioner's appeal rights. (Exhibit A, pp 5-6; Testimony)
6. On May 4, 2021, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, p 4)

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.

Medicaid Policy in Michigan is found in the Medicaid Provider Manual (MPM). With regard to prior authorizations, it states, in pertinent part:

1.9 PRIOR AUTHORIZATION

Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services. . . .

*Medicaid Provider Manual
Practitioner Chapter
April 1, 2021, p 4*

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 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
April 1, 2021, pp 19-20
Emphasis added*

The Department witness testified that Petitioner's request was denied for failure to meet policy requirements for denture replacement on a five-year rotation. According to Department records, Petitioner received an upper partial denture on or about May 16, 2017.

Petitioner testified that she no longer has any upper teeth for the upper partial denture to attach to. Petitioner indicated that she cannot currently eat hard food and has to mash up all her food. Petitioner testified that she really needs this denture and was appealing to the Department's humanity. Petitioner noted that she paid for the upper partial denture herself.

In response, the Department's witness indicated that the 5-year policy applies to all dentures, whether paid for by Medicaid or not. The Department's witness indicated that Petitioner should take her partial denture back to her dentist and have it adjusted so that it will work for her. The Department's witness testified that the dentist can add teeth to the partial denture to make it work, even if this means adding teeth to make it the equivalent of a complete upper denture, and this will be paid for by Medicaid. The Department's witness noted that if Petitioner had been approved for a complete upper denture, Petitioner would have no teeth for that denture to attach to either, so making the partial denture into a full denture would be no different.

On review, the Department's decision to deny the request for complete upper dentures was reached within policy. Petitioner received a partial upper denture on May 16, 2017. As such, Petitioner is not eligible for replacement of the dentures until May 2022, regardless of whether the partial denture was paid for by Medicaid. As indicated, Petitioner's dentist can add teeth to Petitioner's upper partial denture until it works, even if that means making the partial denture the equivalent of a complete upper denture. Unfortunately, the undersigned has no authority to ignore clear policy and no equitable authority to grant Petitioner any relief. Based on the evidence presented, the Department's decision was proper and must be upheld.

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 for prior authorization for complete upper dentures.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.



RM/sb

Robert J. Meade
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

Gretchen Backer
400 S. Pine, 6th Floor
PO Box 30479
Lansing, MI
48909
MDHHS-PRD-HEARINGS@michigan.gov

DHHS Department Rep.

M. Carrier
Appeals Section
PO Box 30807
Lansing, MI
48909
MDHHS-Appeals@michigan.gov

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI
[REDACTED]

Agency Representative

Emily Piggott
PO Box 30807
Lansing, MI
48909
MDHHS-Appeals@michigan.gov