



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: June 25, 2021  
MOAHR Docket No.: 21-002532  
Agency No.: 1231846570  
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 upon the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on June 23, 2021. Petitioner appeared and testified on his own behalf. No one appeared on behalf of Respondent, Aetna Better Health of Michigan (Department)<sup>1</sup>. The hearing was scheduled to begin at 11:00 a.m. After waiting 15 minutes, the hearing commenced in the absence of the Department.

## Exhibits:

Petitioner None

Department None

## ISSUE

Did the Department properly deny Petitioner's request for Medicaid coverage for a tooth extraction?

## **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 who is enrolled in the Department Medicaid Health Plan. (Testimony.)
2. In early May of 2021, Petitioner received from Department, notification

<sup>1</sup> On June 3, 2021, a Notice of Hearing was mailed to the Department's last known mailing address and was not returned as undeliverable.

denying coverage for a tooth extraction. (Testimony.)

3. On May 11, 2021, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (See Hearing File.)

### **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.

The Respondent is 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 the 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 MDHHS 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 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.

\* \* \*

The covered services provided to Healthy Michigan Plan enrollees under the contract include all those listed above and the following additional services:

- Additional preventive services required under the Patient Protection and Affordable Care Act as outlined by MDHHS
- Habilitative services
- Dental services<sup>2</sup>

With respect to dental services through the HMP, the MPM further states in part:

#### **1.1.D. HEALTHY MICHIGAN PLAN DENTAL**

Beneficiaries enrolled in a health plan will receive their dental coverage through their health plan. Each health plan contracts with a dental provider group or vendor to provide dental services administered according to the contract. The contract is between the health plan and the dental provider group or vendor, and beneficiaries must receive services from a participating provider to be covered. Questions regarding eligibility, prior authorization or the provider network should be directed to the beneficiary's health plan. It is important to verify eligibility at every appointment before providing dental services. Dental services provided to an ineligible beneficiary will not be reimbursed.

For those beneficiaries who are not enrolled in a health plan, dental services will be provided by enrolled dental providers on a FFS basis.<sup>3</sup>

As allowed by the above policy and its contract with the Department, the MHP and its dental provider group or vendor have developed prior authorization requirements and utilization management and review criteria and have limited coverage of dental services to those consistent with all the Department's applicable published Medicaid coverage and limitation policies.

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<sup>2</sup> Medicaid Provider Manual, Medicaid Health Plan, October 1, 2020, pp 1-2.

<sup>3</sup> MPM, Dental Chapter, October 1, 2020, pp 2-3.

Moreover, with respect to the dental coverage through the Department, the MPM states in part:

## **SECTION 6 – COVERED SERVICES**

This section provides information on Medicaid covered services and is divided into the following subsections that correspond to the categories of services in Current Dental Terminology (CDT) as published by the American Dental Association.

- Diagnostic Services
- Preventive Services
- Restorative Treatment
- Endodontics
- Periodontics
- Prosthodontics (Removable)
- Oral Surgery
- Adjunctive General Services

Providers must use the current CDT procedure codes published by the American Dental Association (ADA) when completing both the claim and PA form. Refer to the Additional Code/Coverage Resource Materials subsection of the General Information for Providers Chapter for additional information regarding coverage parameters.<sup>4</sup>

Here, Department failed to participate in the hearing and did not provide any rational as to why they had decided to deny Petitioner's request for a tooth extraction.

Given the above policies and evidence, Respondent has not shown that their actions were in conformity with the applicable laws and policies. Therefore, their decision to deny services must be reversed.

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<sup>4</sup> *Id* at p10.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Department improperly denied Petitioner's tooth extraction.

**IT IS, THEREFORE, ORDERED** that:

Department's decision is **REVERSED**.

The Department must initiate the reprocessing of Petitioner's request for services and issue the appropriate benefit action notice.

CA/dh

*J. Arendt*  
**Corey Arendt**

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

**Community Health Rep**

Aetna Better Health of Michigan  
Grievances and Appeals –  
Aetna Better Health of MI  
28588 Northwestern Highway –  
Suite 380B  
Southfield, MI 48034

**Petitioner**

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