

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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Date Mailed: August 3, 2021
MOAHR Docket No.: 21-002753
Agency No.: [REDACTED]
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 42 CFR 431.200 *et seq.*, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on July 6, 2021. Petitioner appeared on her own behalf and offered testimony. Nicole Sanford, Attorney, appeared on behalf of Respondent, Delta Dental (MHP).

Following the hearing, on July 7, 2021, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, objections to the MHP participating in the hearing, the hearing proceeding in the absence of the Michigan Department of Health and Human Services, and the admission of Exhibit A when Petitioner had not yet received a copy of the exhibits.

The relevant Respondent is the MHP and not the Michigan Department of Health and Human Services. As a result, the only necessary participants for the hearing are the Petitioner and the MHP. As for the admission of Exhibit A, Petitioner indicated during the hearing that she did receive a copy of the hearing packet prior to the hearing, all 35 pages, and that she did have an opportunity to review them. Petitioner went on to indicate that she had no objection to the exhibits being admitted. Consequently, Petitioner's objections are noted and overruled.

Exhibits:

Petitioner	None
MHP	A – Hearing Summary

ISSUE

Did the MHP properly deny the Petitioner's prior approval request for a root canal, restore, and crown?

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 over the age of 21 enrolled with MHP. (Exhibit A; Testimony).
2. On May 24, 2021, and again on May 26, 2021, MHP received from Ionia Family Dentistry, duplicate pretreatment estimates on behalf of Petitioner. The pretreatment estimates sought a root canal, restore, and crown. (Exhibit A; Testimony.)
3. On May 24, 2021, the MHP sent Petitioner a Notice of Adverse Benefit Determination. The notice indicated Petitioner's request for a root canal, restore, and crown were denied due to the Petitioner being outside the contractual age limit for the requested services. (Exhibit A; Testimony.)
4. On June 9, 2021, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing.

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.

On May 30, 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 MHP is one of those Medicaid Health Plans.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. The Contractor must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise

changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 2.024.¹

1. The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:
 - Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
 - A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
 - Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
 - An annual review and reporting of utilization review activities and outcomes/interventions from the review.
 - The UM activities of the Contractor must be integrated with the Contractor's QAPI program.
2. Prior Approval Policy and Procedure: The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.²

Unrefuted testimony on the record is that the MHP's handbook was approved by the Department. Specifically, in this case, the handbook states if you are under age 21, crowns are a covered service. This criterion matches the criteria found in the Medicaid Provider Manual which states:

¹ Section 1.022(E)(1), Covered Services. MDCH contract (Contract) with the Medicaid Health Plans, October 1, 2010.

² Section 1.022(AA), Utilization Management, MDCH contract (Contract) with the Medicaid Health Plans, October 1, 2010.

6.4 ENDODONTICS

Endodontics is a benefit for beneficiaries under age 21. The date of services is the date the treatment was completed. (Refer to the Billing & Reimbursement for Dental Providers chapter of this manual for additional information.)³

In this case, the MHP denied Petitioner's request for coverage for a root canal, restore, and crown. The policy relied upon by the MHP matches the policy found in the MPM. Although Petitioner indicates a need for a root canal and crown, the applicable policy clearly states that in order to be covered, Petitioner must be younger than the age of 21.

The MHP and this Administrative Law Judge are bound by Medicaid and MDHHS policies. In addition, this Administrative Law Judge possesses no equitable jurisdiction to grant exceptions to Medicaid or MDHHS policies. The MHP provided sufficient evidence that it implemented their policies in accordance with MDHHS policy; therefore, I find their actions to deny Petitioner's request to be proper.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied Petitioner's request for a root canal, restore, and crown.

IT IS THEREFORE ORDERED that:

The MHP's decision is **AFFIRMED**.

CA/dh

J. Arent

Corey Arent
Administrative Law Judge
for Elizabeth Hertel, Director
Department of Health and Human Services

³ Medicaid Provider Manual, Dental Chapter, July 1, 2021, p 21.

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

Delta Dental
c/o Kristen Smith
Compliance Officer
4100 Okemos Road
Okemos, MI 48864

Petitioner



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