

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: July 23, 2021
MOAHR Docket No.: 21-003038
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 July 22, 2021. Petitioner appeared and testified on her own behalf. Leigha Burghdoff, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Erica Titov, Medicaid Utilization Analyst, testified as a witness for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record as Exhibit A, pages 1-12.

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 June 5, 2017, Petitioner received a partial upper denture that was paid for by the Department. (Exhibit A, page 9; Testimony of Petitioner).
2. At the time the partial denture was requested, Petitioner's dentist indicated that the 5-year prognosis for the partial upper denture was good. (Testimony of Medicaid Utilization Analyst).
3. In January of 2021, Petitioner's remaining upper teeth were extracted. (Exhibit A, page 8; Testimony of Petitioner).

4. On April 24, 2021, the Department received a prior authorization request for a complete upper denture that was submitted on Petitioner's behalf by a dentist. (Exhibit A, page 8).
5. On June 16, 2021, the Department sent Petitioner written notice that the request had been denied. (Exhibit A, pages 6-7).
6. 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 Medicaid or Medicaid Managed Care has provided a denture in the same arch within five years. An upper partial denture was placed 06/05/2017 per the MDHHS Database.

Exhibit A, page 6

7. On June 25, 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 5).

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). At the time of the request in this case, the MPM had been modified by Medical Services Administrative (MSA) Bulletin 21-0, which stated in part:

Bulletin Number:	MSA 21-02
Distribution:	Dentists, Dental Clinics, Dental Health Plans, Medicaid Health Plans, Integrated Care Organizations, Federally Qualified Health Centers, Tribal

Health Centers, Local Health
Departments

Issued: April 1, 2021

Subject: New Dental Chapter for the MDHHS Medicaid Provider Manual; Revised Denture Policy; Incomplete Procedures.

Effective: May 1, 2021

Programs Affected: Medicaid, MIChild, Healthy Michigan Plan, Children's Special Health Care Services (CSHCS)

* * *

The purpose of this bulletin is to provide notification of a new Dental chapter in the Michigan Department of Health and Human Services (MDHHS) Medicaid Provider Manual. The new chapter expands and clarifies existing policy, updates terminology, and adds provider references. **There are no changes to covered dental services, coverage parameters (frequency/quantity limits, age parameters, etc.) or services that require prior authorization (PA).**

Key chapter updates are outlined in Section I and policy changes are described in Section II below. Medicaid coverage policies can be found in their entirety in the appropriate sections of the attached chapter.

* * *

II. Policy Changes

A. Revisions to Denture Policy

A full mouth/complete series radiographs must be submitted with PA requests for partial dentures. Radiographs are not required to be submitted with PA requests for complete dentures. MDHHS reserves the right to request radiographs if necessary. The following information must be submitted with the PA request:

- The appropriate CDT code(s) for the service

requested.

- Completed tooth chart documenting missing teeth and teeth that will be extracted.
- Documentation of the soundness of the remaining teeth, if applicable.
- Five-year prognosis for the denture.
- Any pertinent health information (e.g., co-existing health conditions, pregnancy, etc.) that may impact the proposed treatment plan.

PA determinations are made based on review of the documentation submitted and do not guarantee reimbursement. The dentist is responsible for ensuring the completeness and accuracy of all documentation and tooth charting submitted with a PA request. Documentation errors resulting in improper payments may be subject to recovery of reimbursement by MDHHS regardless of authorization.

The following documentation must be retained in the beneficiary's dental record and made available to MDHHS upon request:

- Beneficiary understanding and agreement that another denture is not a covered benefit for five years.
- Beneficiary education addressing all available treatment options and documentation of the beneficiary's understanding and agreement.

Complete or partial dentures are not authorized when:

- *Medicaid or Medicaid Managed Care has provided a denture in the same arch within five years.*
- An adjustment, reline, repair, or rebase will make the current denture serviceable.
- A complete or partial denture obtained through Medicaid within five years has been lost or broken.

MDHHS may consider reimbursement for a replacement denture in less than five years when it is more cost-effective to replace the denture than repair it. When submitting a PA request for a replacement denture, the provider must provide an explanation of the failure of the current denture and an itemized statement of the repairs needed to make the denture serviceable.

*(italics added for emphasis)*¹

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 a denture in the same arch within the past five years.

In response, Petitioner testified that she received the partial upper denture in 2017, but that she has had all her remaining upper teeth extracted since that placement; her partial denture is now unusable; and Petitioner is limited in what foods she can now eat.

The Department's witness further testified that, at the time Petitioner's dentist requested the partial upper denture, the dentist indicated that 5-year prognosis for the denture was good and that, even if Petitioner's dentist turned out to be wrong, the policy must still be followed, and the Department cannot approve another upper denture within five years of approving an earlier one.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying her 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 her 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 in the same arch within five years and the record in this case demonstrates that Petitioner had an upper denture placed and paid for by the Department within the five years preceding her current request for another upper denture. Moreover, even if Petitioner's old denture has become unusable, the applicable policy is clear and another denture cannot be provided.

¹ Prior to the change, the MPM stated that 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." MPM, April 1, 2021 version, Dental Chapter, page 21.

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

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

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Petitioner

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