

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: July 29, 2021
MOAHR Docket No.: 21-003139
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 hearing was held on July 28, 2021. Petitioner appeared and testified on her own behalf. Emily Piggott, Appeals Review Officer, represented Respondent, Michigan Department of Health and Human Services (Department). Kim Hanson, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for upper 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]. (Exhibit A, p 12; Testimony)
2. On April 19, 2021, Petitioner's dentist sought approval for partial upper and partial lower dentures for Petitioner. (Exhibit A, p 12; Testimony)
3. On June 15, 2021, the request for partial upper and partial lower dentures was denied. The request for partial upper dentures was denied because Petitioner received an upper partial denture through Medicaid on July 24, 2018. The request for partial lower dentures was denied because, with the placement of the upper partial dentures, Petitioner has 8 posterior (back) teeth in occlusion (i.e., biting together). (Exhibit A, pp 12-13; Testimony)

4. On June 15, 2021, the Department sent Petitioner a Notice of Amended Authorization and a Notice of Denial indicating that Petitioner's request for partial lower dentures was approved, but that the request for partial upper dentures was denied. Petitioner was further advised of her appeal rights. (Exhibit A, pp 10-11; Testimony)
5. On July 6, 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.

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

SECTION 2 – PRIOR AUTHORIZATION

Prior authorization (PA) must be obtained for certain services identified in this chapter and those dental services identified as requiring PA in the MDCH Dental Database posted on the MDCH website. (Refer to the Directory Appendix for website information.) A PA request is needed only for those services requiring PA.

* * *

2.2 COMPLETION INSTRUCTIONS

The Dental Prior Approval Authorization Request form (MSA-1680-B) is used to obtain authorization. (Refer to the Forms Appendix for instructions for completing the form.) When requesting authorization for certain procedures, dentists may be required to send specific additional information and materials. Based on the MSA-1680-B and the documentation attached, staff approves or disapproves the request and returns a copy to the dentist. Approved requests are assigned a PA number. For billing purposes, the PA number must be entered in the appropriate field on the claim form. An electronic copy of the MSA-1680-B is available on the MDCH website. (Refer to the Directory Appendix for website information.)

April 1, 2021, p 3

The general instructions for Medicaid coverage for complete and partial dentures during the period when the PA request and denial were made are set forth in the following policy from the Medicaid Provider Manual:

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. An upper partial denture 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).

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 rebasing will make a prosthesis serviceable.
- A complete or partial denture has been lost or broken beyond repair 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 20-21
Emphasis added*

On April 1, 2021, the Department issued MSA Bulletin 21-02 which updated dental policy in Michigan as follows, effective May 1, 2021:

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.

The Department witness testified that on April 19, 2021, Petitioner's dentist sought approval for partial upper and partial lower dentures for Petitioner. The Department witness indicated that on June 15, 2021, the request for partial upper and partial lower dentures was denied. The Department witness indicated that the request for partial upper dentures was denied because Petitioner received an upper partial denture through Medicaid on July 24, 2018. The Department witness indicated that the request for partial lower dentures was denied because, with the placement of the upper partial dentures, Petitioner has 8 posterior (back) teeth in occlusion (i.e., biting together).

Petitioner testified that she did receive a partial upper denture in July 2018 but that when Petitioner recently went to her dentist, the dentist informed her that all of her upper teeth needed to be pulled, so there would be no teeth for the current upper partial to attach to. Petitioner testified that she does not want to be without any upper teeth as she is only █ years old. Petitioner also indicated that her doctor considered adding more teeth to the upper partial to make it serviceable but that it would not be possible because that partial was only designed for the front three teeth and there was only room to add maybe one tooth on each side.

On review, the Department's decision to deny the request for dentures was reached within policy. The Department must enforce Medicaid policy as written. Based on the information submitted with the prior authorization request, Petitioner had a previous upper partial denture placed on July 24, 2018. As such, she will not be eligible for a new upper denture until 2023. Petitioner also has 8 posterior teeth in occlusion once her partial upper denture is placed. As such, she is not entitled to partial lower dentures at this time paid for by Medicaid.

As indicated above, under the new policy found in MSA Bulletin 21-02, "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." As also indicated, the dentist must include an explanation in the PA request for why a replacement denture would be more cost effective. The dentist must also note on the PA request the upper teeth that he or she plans to extract. Petitioner is free to submit a new PA request at any time, following the above instructions and policy, if she would like to be considered for a new denture within the five-year timeline.

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 partial upper dentures.

IT IS THEREFORE ORDERED that:

The Department'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

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
48933
MDHHS-Appeals@michigan.gov

Agency Representative

Emily Piggott
Appeals Section
PO Box 30807
Lansing, MI
48933
MDHHS-Appeals@michigan.gov

Petitioner

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