

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: October 14, 2021
MOAHR Docket No.: 21-004218
Agency No.: 0
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 October 13, 2021. [REDACTED], Petitioner's mother and caregiver, appeared and testified on Petitioner's behalf. [REDACTED] [REDACTED], Petitioner also appeared but did not testify. John Lambert, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Eric Neilson, Section Manager, Program Review Division, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for complete upper and lower 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 10; Testimony)
2. On July 12, 2021, Petitioner's dentist sought approval for complete upper and lower dentures for Petitioner. (Exhibit A, p 10; Testimony)
3. Records show that Petitioner was approved for a complete upper and lower denture through Medicaid on or about December 28, 2019. (Exhibit A, pp 12-15; Testimony)
4. On September 1, 2021, the request for complete upper and lower dentures was reviewed and denied because Petitioner was shown to have received dentures

within the last five years. (Exhibit A, pp 8-9; Testimony)

5. On September 1, 2021, the Department sent Petitioner a Notice of Denial, including Petitioner's appeal rights. (Exhibit A, pp 8-9; Testimony)
6. On September 13, 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:

SECTION 2 – PRIOR AUTHORIZATION

Prior authorization (PA) is required for services identified in this chapter and the Medicaid Code and Rate Reference tool. For questions about medically necessary dental services beyond those described in this chapter, providers should contact the MDHHS Program Review Division (PRD). (Refer to the Directory Appendix for website and contact information.)

* * *

2.2 COMPLETION INSTRUCTIONS

The Dental Prior Approval Authorization Request form (MSA-1680-B) is used to obtain authorization. An electronic fill-in enabled version of the MSA-1680-B is available on the MDHHS website. (Refer to the Directory Appendix for website information.)

Providers should use the appropriate CDT code(s) on all PA requests. When requesting medically necessary services for which there is no procedure code, the Not Otherwise Classified (NOC) code is used. Services requested under NOC codes require PA. The MSA-1680-B should only include the procedure(s) that requires PA.

* * *

July 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 dentures, immediate complete dentures, and partial dentures are benefits for all beneficiaries and require PA. Complete or partial dentures are prior 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).

Providers must assess the beneficiary's general oral health and provide a five-year prognosis for the complete or partial denture requested. The provider is expected to evaluate whether the treatment is appropriate for the individual beneficiary, and assess the probability of delivering removable dentures and the beneficiary's compliance with follow-up care.

It is the provider's responsibility to discuss the treatment plan with the beneficiary, including any applicable frequency limits and other pertinent information related to the proposed services, and obtain the beneficiary's agreement with the proposed treatment plan. Documentation of the beneficiary's agreement must be retained in the beneficiary's dental record.

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 MSA-1680-B:

- The appropriate CDT code(s) for the service(s) 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.

Before the final impressions are taken for the fabrication of a denture, adequate healing necessary to support the denture must take place following the completion of extractions and/or surgical procedures.

When billing for a complete or partial denture, the date of service is the date the denture was delivered to the beneficiary. Reimbursement for a complete or partial denture includes all necessary adjustments, relines, repairs, duplication, etc. within six months of insertion.

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.

*Medicaid Provider Manual
Dental Chapter
July 1, 2021, pp 23-24
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 was approved for a complete upper and lower denture through Medicaid on or about December 28, 2019.

Petitioner's mother testified that Petitioner's current dentures were replacement dentures from even earlier dentures that never worked. Petitioner's mother indicated that Petitioner has been back and forth many times to the dentist and the current dentures still do not fit properly. Petitioner's mother testified that the structure of Petitioner's mouth is different from the average mouth. Petitioner's mother indicated that the previous dentist was supposed to replace the earlier dentures free of charge, not bill Medicaid for new dentures in December 2019. Petitioner's mother testified that the current dentures make it impossible for Petitioner to eat properly as the dentures shift and cause sores in Petitioner's mouth. Petitioner's mother indicated that Petitioner has a number of health complications, including type 1 diabetes, and it is essential that she be able to eat properly. Petitioner's mother mentioned that it was actually Petitioner's doctor who referred her and Petitioner to the current dentist at Detroit Mercy Dental School because the doctor was concerned with Petitioner not eating properly. Petitioner's mother testified that the new dentist addressed all of the issues with Petitioner's mouth that the previous dentist did not.

In response, the Department's witness testified that given the fit and quality issues with Petitioner's current dentures, it may be possible for the Department to make an exception to the 5-year rule. The Department's witness indicated that to request such an exception, Petitioner would have to ask her dentist to submit a new PA request and indicate in Box 28 the issues Petitioner is having with her current dentures, that the dentures cannot be repaired, and that Petitioner is suffering negative health consequences as a result. The Department's witness also indicated that Petitioner should also include a letter from her doctor regarding her health problems and how those problems are worsened by the current dentures.

On review, the Department's decision to deny the request for complete upper and lower dentures was reached within policy. Petitioner was approved for a complete upper and lower denture through Medicaid on or about December 28, 2019. As such, Petitioner is not eligible for replacement dentures until December 2024. However, as indicated above, Petitioner can seek an exception to the Department's policy by following the instructions above. However, based on the evidence presented and available to the Department at the time the decision was made, 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 and lower 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
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DHHS Department Rep.

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Petitioner

[REDACTED]
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[REDACTED], MI
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Authorized Hearing Rep.

[REDACTED]
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[REDACTED]