



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: December 2, 2021
MOAHR Docket No.: 21-004951
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 42 CFR 431.200 *et seq.* and 42 CFR 438.400 *et seq.* upon Petitioner's request for a hearing.

After due notice, a hearing was held on December 1, 2021. Petitioner appeared and testified on her own behalf. Camille Butler, Compliance & Regulatory Affairs Analyst, appeared and testified on behalf of Blue Cross Complete, the Respondent Medicaid Health Plan (MHP). Glenda Wickizer, RN, Clinical Reviewer; Ramja Kaji, Compliance & Regulatory Affairs Manager; Jennifer Blanton, Appeals Supervisor; Jennifer Berschbach, Prior Authorizations, Healthy MI Dental; Michele Campine, Operations Manager, Healthy MI Dental; and Courtney Cloutier, Compliance & Regulatory Affairs Director appeared as witnesses for the MHP.

ISSUE

Did the MHP properly deny Petitioner's prior authorization request for a periodontal maintenance procedure?

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] who is enrolled in the Respondent MHP. (Exhibit A, p 3; Testimony)
2. On August 8, 2018, Petitioner's dentist submitted a prior authorization for a periodontal maintenance procedure for Petitioner. (Exhibit A, p 35; Testimony)
3. On August 17, 2018, the MHP sent Petitioner and her provider a notice indicating that the prior authorization request was denied because the

procedure is only covered if done within 24 months of a scaling and root planing procedure. Petitioner's last scaling and root planing procedure was done on September 27, 2011. (Exhibit A, pp 37-43)

4. On April 16, 2021, Petitioner's dentist submitted a claim for a periodontal maintenance procedure that was conducted on Petitioner on March 30, 2021, i.e., the same procedure that was denied via prior authorization on August 17, 2018. (Exhibit A, pp 3, 52; Testimony)
5. On May 3, 2021, the MHP's dental contractor reviewed the claim and determined that Petitioner was not eligible for the periodontal maintenance procedure because the procedure is only covered if done within 24 months of a scaling and root planing procedure. Petitioner's last scaling and root planing procedure was done on September 27, 2011. (Exhibit A, pp 5-6, 52; Testimony)
6. On May 3, 2021, the MHP sent Petitioner and her provider written notice that the claim was denied because the procedure is only covered if done within 24 months of a scaling and root planing procedure. (Exhibit A, pp 5-6, 52; Testimony)
7. On June 16, 2021, Petitioner requested an internal appeal. (Exhibit A, pp 8-14; Testimony)
8. On June 17, 2021, the MHP's dental contractor sent Petitioner and her provider written notice that the internal appeal was denied and that the original denial of a periodontal maintenance procedure was upheld. (Exhibit A, pp 16-24; Testimony)
9. On October 21, 2021, the Michigan Office of Administrative Hearings and Rules received Petitioner's request for hearing. (Exhibit A, pp 46-50)

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 MDCH 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.

*Medicaid Provider Manual
Medicaid Health Plan Chapter
April 1, 2021, p 1
Emphasis added*

The MHP's Healthy Michigan Dental Policy, Section 3.3 provides, "Periodontal maintenance cleanings must be performed within twenty-four (24) months after a deep cleaning below the gum line." (Exhibit A, p 30)

Pursuant to the above policy and its contract with the Department, the MHP has developed a prior authorization process subject to the limitations and restrictions described in the MHP's Medicaid agreement, the MPM, Medicaid bulletins, and other directives.

The MHP's witness testified that Petitioner's request for a periodontal maintenance procedure was denied because the procedure is only covered if done within 24 months of a scaling and root planing procedure. Petitioner's last scaling and root planing procedure was done on September 27, 2011.

Petitioner testified that she has had periodontal disease since age 16 and has had numerous procedures over the years to maintain her teeth. Petitioner indicated that due to those procedures and her own good dental hygiene, she still has all her teeth. Petitioner indicated that she did not know she had dental coverage through the MHP until recently and that all her dental records are at U of M Dental School, where she has gone for the past 10-15 years. Petitioner testified that when she went in for the periodontal procedure in March 2021, the dentist told her that her MHP would likely not cover the procedure because it had been so long since she had a scaling and planing procedure. Petitioner testified that the dental provider told her that her mouth looked great though and she did not actually need a scaling and planing procedure. Petitioner testified that she has had the scaling and planing procedure in the past and it is very uncomfortable, so she did not want to go through it again. Petitioner indicated that she was also worried about having such an extensive dental procedure, and one that causes a lot of bleeding, during the COVID-19 pandemic. Petitioner testified that she understands that the MHP has their policies, but she is asking for an exception to the policy because she needs regular periodontal maintenance but does not need scaling and planing.

Given the above policy and evidence, Petitioner has failed to prove by a preponderance of the evidence that the MHP erred in denying the prior authorization request for a periodontal maintenance procedure. As indicated above, policy clearly states that the procedure is only covered if done within 24 months of a scaling and root planing procedure. Petitioner's last scaling and root planing procedure was done on September 27, 2011. As such, Petitioner is not eligible for a periodontal maintenance procedure until she has another scaling and planing procedure. Petitioner can also ask her dentist to submit a new prior authorization request containing more information as to why she does not need a scaling and planing procedure for the MHP to consider. While the undersigned can certainly sympathize with Petitioner's situation, the undersigned has no authority to ignore clear policy and no equitable powers to grant Petitioner any relief. Accordingly, the MHP properly denied Petitioner's request for a periodontal maintenance procedure.

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 prior authorization request for a periodontal maintenance procedure.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

A handwritten signature in black ink, appearing to read "Robert J. Meade", written in a cursive style.

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

Managed Care Plan Division
CCC, 7th Floor
Lansing, MI
48919
MDHHS-MCPD@michigan.gov

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