

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI
[REDACTED]

Date Mailed: May 31, 2022
MOAHR Docket No.: 22-001770
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 telephone hearing was held on May 25, 2022. [REDACTED], Petitioner's daughter, appeared and testified on Petitioner's behalf. [REDACTED]. Petitioner, also appeared, but did not testify. Jinny Bromberg appeared as an interpreter. Emily Piggott, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Erica Titov, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for complete upper 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 Medicaid beneficiary. (Exhibit A, p 7; Testimony.)
2. On March 24, 2022, the Department received a prior authorization request from Petitioner's dentist for complete upper dentures for Petitioner. (Exhibit A, p 8; Testimony.)
3. Records show that Petitioner was approved for partial upper and partial lower dentures on October 29, 2018. (Exhibit A, p 11; Testimony.)
4. On April 12, 2022, the request for complete upper dentures was reviewed and denied because Petitioner was shown to have received partial upper and partial lower dentures within the last five years. (Exhibit A, p 6; Testimony.)

5. On April 12, 2022, the Department sent Petitioner a Notice of Denial, including Petitioner's appeal rights. (Exhibit A, pp 6-7; Testimony.)
6. On April 21, 2022, 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.

* * *

*Medicaid Provider Manual
Dental Chapter
January 1, 2022, 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
January 1, 2022, pp 22-23
Emphasis added*

The Department's 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 partial upper and partial lower dentures on October 29, 2018.

Petitioner's daughter testified she believes it was an accidental or fraudulent billing for dentures for her mother in 2018 because her mother was never fitted for or received dentures before. Petitioner's daughter indicated that she tried to call the listed dental provider, but no one ever called her back and they will no longer take her calls. Petitioner's daughter testified that her mother's dental condition keeps deteriorating as can be seen in the x-ray on page 9 of the hearing packet. Petitioner's daughter indicated that her mother only has a few teeth left so she cannot eat properly and is losing weight quickly.

In response, the Department's witness indicated that Petitioner's daughter should immediately contact the Department's Office of Inspector General (OIG) at 1-855-643-7283 and report the fraud. The Department's witness listed the information Petitioner's daughter should have available when she makes the call, such as the exact date of the alleged service, the two dental codes, and the provider's NPI billing number, all of which are found on page 11 of the hearing packet. The Department's witness further indicated that Petitioner could contact the Medicaid beneficiary line at 1-800-642-3195 for assistance.

On review, the Department's decision to deny the request for complete upper dentures was reached within policy. Records show that Petitioner was approved for upper partial and lower partial dentures in October 2018. Based on those records, Petitioner is not eligible for replacement of the dentures until October 2023, although, as the Department's witness indicated, Petitioner can submit a new request six months prior to the October 2023 date. **Also, Petitioner may be able to seek a medical exception to the five-year rule if the fraud investigation is taking too long. Petitioner would need to have her primary care physician write a letter indicating that the complete upper denture is necessary to treat an ongoing medical condition, i.e., Petitioner's rapid weight loss. Petitioner would take the letter from her doctor to her dentist and have the dentist submit the letter with a new prior authorization request.** 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 dentures.

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge

RM:tem

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

Via Electronic Mail:

DHHS Dept Contact

Gretchen Backer
MDHHS
P.O. Box 30479
Lansing, MI 48909
MDHHS-PRD-Hearings@michigan.gov

DHHS Department Rep.

M. Carrier
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Via First Class Mail:

Authorized Hearing Rep.

[REDACTED]
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Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]