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Date Mailed: May 15, 2023
MOAHR Docket No.: 23-002101
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 May 11, 2023. Petitioner appeared on her own behalf. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (Department). Eric Neilson, Section Manager, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization (PA) for upper and lower 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 Medicaid beneficiary. (Exhibit A, p 10; Testimony)

2. On February 20, 2023, Petitioner's dentist sought approval for upper and lower partial dentures for Petitioner. (Exhibit A, p 10; Testimony)

3. Records show that Petitioner received a partial upper denture through Medicaid on August 16, 2019. (Exhibit A, pp 13-14; Testimony)

4. Upon review, the request for an upper partial denture was denied because Petitioner had received an upper partial denture within the past five years. The lower partial denture was denied because, with the previously placed upper partial denture, Petitioner had 12 posterior (back) teeth in occlusion (*i.e.*, biting together). (Exhibit A, pp 11-12; Testimony)

5. On March 28, 2023, the Department sent Petitioner a Notice of Denial, which also advised Petitioner of her appeal rights. (Exhibit A, pp 11-12; Testimony)

6. The Notice of Denial did indicate, however, that Department policy changed on April 1, 2023 and that Petitioner would likely be eligible for the lower partial denture because policy no longer has the 8 posterior teeth in occlusion requirement. (Exhibit A, pp 11-12; Testimony)

7. On April 18, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, pp 7-9)

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) 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, 2023, p 4*

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. 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).
>
> 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.
>
> * * *
>
> Complete or partial dentures are not authorized when:
>
> - Medicaid or Medicaid Managed Care has reimbursed a denture in the same arch within five years.
>
> *Medicaid Provider Manual*
> *Dental Chapter*
> *January 1, 2023, pp 21-22*
> *Emphasis added*

The Department's witness testified that the request for an upper partial denture was denied because Petitioner had received an upper partial denture within the past five years. The lower partial denture was denied because, with the previously placed upper partial denture, Petitioner had 12 posterior (back) teeth in occlusion (*i.e.*, biting together). The Department's witness indicated that, per policy, Petitioner did not, therefore, qualify for upper and lower partial dentures at this time.

The Department's witness did indicate, however, that policy changed April 1, 2023, which removed the "8 posterior teeth in occlusion" requirement and that Petitioner would likely be eligible today to receive the lower partial denture, provided Petitioner had not had a prothesis placed in the same arch within the past 5 years. The Department's witness indicated that

Petitioner should just have her dentist contact provider support, who would run a five-year check, and then, provided Petitioner met that requirement, Petitioner's dentist could bill Medicaid directly for the lower partial denture. The Department's witness also explained the medical exception procedure (see below).

Petitioner testified that she understood the new policy and would follow up with her dentist.

On review, the Department's decision to deny the request for dentures was reached within policy. Based on the available information, Petitioner was not eligible for an upper denture because she had an upper partial denture placed in 2019. And, with the placement of the upper partial denture, Petitioner was not eligible for a lower partial denture because she has 12 posterior teeth in occlusion. As such, Petitioner was not entitled to upper and lower partial dentures at the time; paid for by Medicaid. However, as indicated, the Department's policy has now changed*, and Petitioner would likely qualify for a lower partial denture today. **Also, Petitioner may be able to seek a medical exception to the five-year rule due to her digestive issues. Petitioner would need to have her primary care physician write a letter indicating that the dentures are necessary to treat an ongoing medical condition, *i.e.*, Petitioner's digestive issues. Petitioner would take the letter from her doctor to her dentist and have the dentist submit the letter with a new prior authorization request.**

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 upper and lower partial dentures.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

RM/sj

Robert J. Meade
Administrative Law Judge

*** New Policy:**

II. Changed to Dental Benefits

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F. Changes to Complete and Partial Dentures

Complete and partial dentures are benefits once per five years per arch. Complete and partial dentures will no longer require PA. In addition, Medicaid is removing the partial denture requirements for missing at least one anterior tooth or having eight posterior teeth in occlusion. All other policy and coverage parameters remain unchanged. Refer to the MDHHS Medicaid Provider Manual, Dental chapter, for additional information.

Providers must verify with MDHHS that the beneficiary is eligible for a complete or partial denture per the five-year rule as described in the Frequency Verification Process section below prior to rendering service. Failure to complete the verification process may result in claim denial.

Billing Instructions: Providers must attest that the expected prognosis of the complete or partial denture is at least five years in the Remarks section of the claim.

Frequency Verification Process

Providers are required to verify** with MDHHS that the beneficiary is eligible for a crown, complete denture or partial denture per the five-year rule prior to rendering service. Providers can contact Provider Support, preferably via encrypted email, at providersupport@michgian.gov and include "Dental Frequency" in the subject line. Providers should allow seven State business days to receive a response. The provider will be issued a service request number upon completion of the verification process.

"It is the provider's responsibility to verify the five-year rule before providing service and retain documentation of the service request number and date of the response in the beneficiary's dental record. Failure to complete the process may result in denied claims. MDHHS may request this documentation to resolve a denied claim or administrative error. The provider cannot bill the beneficiary for services rendered.

(Refer to the General Information for Providers chapter of the **MDHHS** Medicaid Provider Manual, Billing Beneficiaries section for additional information.)

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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties and/or attorneys, to their last-known addresses in the manner specified below, this 15th day of May 2023.

S. James

S. James
Michigan Office of Administrative Hearings and Rules

Via Electronic Mail:

DHHS Department Contact
Gretchen Backer
MDHHS
Lansing, MI 48909
MDHHS-PRD-Hearings@michigan.gov

Agency Representative
Florence Scott-Emuakpor
MDHHS Appeals
Lansing, MI 48909
ScottF@michigan.gov

DHHS Department Representative
M. Carrier
MDHHS Appeals
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Via First Class Mail:

Petitioner
[redacted]
MI [redacted]