

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-4253	
Appeal No(s)	1459836	MED
AG No.	5042022094	
Hearing Request Date:	12/29/2008	
Hearing Decision Date:	07/28/2009 / TMD	
Appeal Request Date:	08/10/2009	
Agency:	CLARK CDJFS	

Administrative Appeal Decision

Summary of Decision

Your appeal deals with denial of your request for prior authorization for dental implants and bone grafts associated with complete dentures. The request was denied based on your medical problem being adequately addressed by regular dentures. But that determination is contrary to the weight of the evidence in the hearing record, and we are therefore reversing it and directing that your request be approved.

Analysis

You are the appellant's mother and are appealing the September, 2008, denial by the ODJFS Clinical Quality Section of your February, 2008, application for prior authorization of 11 dental implants and two associated dental bone grafts. The justification for the request is that the appellant, age 31, suffers from a condition characterized by the persistence of baby teeth, and associated absence of adult teeth, which she is progressively losing. Combined with "congenital malformed gums and severe limitations...(on) her ability to coordinate her muscles," she will "be unable to adequately benefit from dentures." The lack of muscle coordination results from "multiple congenital handicaps, which include...Absence of cerebellar function...Mental retardation...(and) congenital osteoporosis."

While dental implants are not included as a covered prothodontic service under the Ohio Medicaid program, the service can be approved if medically necessary as an "Unusual and/or specialized treatment required to safeguard the health and welfare of

the consumer.”¹ Medical necessity is the fundamental concept underlying the Medicaid program, and is defined as ‘services which are necessary for the diagnosis or treatment of disease, illness, or injury and without which the patient can be expected to suffer prolonged, increased or new morbidity, impairment of function, dysfunction of a body organ or part, or significant pain and discomfort.’² A medically necessary service must:

- (1) Meet generally accepted standards of medical practice;
- (2) Be appropriate to the illness or injury for which it is performed as to type of service and expected outcome;
- (3) Be appropriate to the intensity of service and level of setting;
- (4) Provide unique, essential, and appropriate information when used for diagnostic purposes;
- (5) Be the lowest cost alternative that effectively addresses and treats the medical problem; and
- (6) Meet general principles regarding reimbursement for Medicaid covered services found in rule 5101:3-1-02 of the Administrative Code.

In applying this rule, “a treating physicians’ opinion based on objective evidence should be accorded significant weight.” Where an appellant produces uncontroverted evidence of medical necessity in support of a requested service and there is no medical evidence presented to the contrary, an ODJFS order denying the requested service is not supported by reliable, probative, or substantial evidence.³

Your prior authorization request was supported by a letter from your doctor citing “the opinion of two dental sub specialists that...(you) would not be able to use any dental bridgework for dentures because of...(your) multiple congenital handicaps...” He thus concluded that “the only realistic treatment plan that would meet her medical necessity of maintain reasonable capacity to chew and digest her food would require dental implants.” This opinion was supported by your licensed speech pathologist with “extensive clinical expertise working on cranio-facial reconstructive teams both here and abroad.” Finally, your dentist opined that “I have at no time felt that...(you) would be able to wear standard full dentures with any degree of comfort or success (function). There are irregularities in the shape and alignment of...(your) upper and lower jaws combining with...difficulties in muscular control. These factors dictate the need for

1 OAC 5101:3-5-08, 3-5-11(G)(1)

2 OAC 5101:3-1-01(A)

3 Id., at 54

special procedures. This is why dental implants are needed to help...secure any tooth replacement benefits...(and your) future well-being will be diminished if nothing is done to improve...(your) ability to eat and speak effectively.”

In denying your application, the Bureau’s dental specialist reasoned as follows:

Now the end results of...(your) treatment will be the same,...(you) will have complete upper and complete lower dentures. Medicaid covers regular dentures, therefore medical necessity...can be accomplished without doing the bone grafts and the implants. The teeth can be removed, Medicaid covers that service. After adequate healing time, complete upper and complete lower dentures can be made, Medicaid covers this service. The care of the regular dentures will be the same as the care of the implants. The cost of the implants and accompanying treatments is \$33,600. The cost of regular complete dentures is \$800. The masticatory function would be the same in both cases.

The hearing officer agreed that “the physical function would be the same with either type of denture” and also questioned “why the appellant’s muscular control would preclude dentures, but she would be able to chew with dental implants.” She shared the Bureau’s concern “about anchoring the implants, due to the Appellant’s osteoporosis,” and thus overruled the appeal.

But this analysis seems to us to completely ignore the unanimity of opinion by your specialists that you “will simply not be able to chew food with dentures,” because of your misshapen gums, misaligned jaws, and lack of muscular control associated with your developmental disabilities. As a practical matter, it makes sense that it is more likely that the dentures will stay in place if attached to implants, especially given your gum and jaw problems. And the concern regarding the effect of your osteoporosis is speculative at best.

While we agree that the 40-fold increase in the cost of the implants over regular dentures is a reasonable concern, the standard in the medical necessity rule emphasizes “the lowest cost alternative that effectively addresses and treats the medical problem.” In this instance, the unanimity of opinion among your several treating doctors is that regular dentures would not effectively address and treat your medical problem. For this reason, we hold that the hearing decision is contrary to the weight of the evidence presented at the hearing.

DECISION

Accordingly, we must ORDER that the hearing decision is REVERSED and an order of COMPLIANCE issue to the Bureau of Clinical Management to approve your prior authorization request within the Medicaid payment standards for the requested service.

The Bureau is directed to send you written notice of the action taken as a result of this decision via an ODJFS 4074, 4065, 7334, 7401 or other appropriate state form. The Bureau is to attach a copy of this notice to the ODJFS 4068 State Hearing Compliance form. You retain all state hearing rights regarding any future Bureau determination.

Administrative Appeal Officer

CONCUR:

Chief Legal Counsel

Date of Issuance: August 26, 2009

Notice to Appellant

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail the original notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services
Office of Legal Services
30 E. Broad Street, 31st Floor
Columbus, OH 43215-3414**

The Appellant must also file a copy of the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the

department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc:

Director, CLARK CDJFS

FOGLEA, DYEHOT, Bureau of State Hearings