

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,210 &

) 12,321

Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare denying his application for dentures under both the Medicaid and General Assistance programs.

FINDINGS OF FACT

1. The petitioner is a seventy-six-year-old man who has had a number of gastro-intestinal complications over the past few years, including colon cancer, anorexia, and severe gastritis. He suffers from inanition (exhaustion due to poor nutrition) and has suffered a weight loss of about thirty pounds over the last nine years, including more than ten pounds in the last year alone. He is currently gaunt appearing and weak.
2. The petitioner has been treated for these and other illnesses (such as emphysema) for some time through the use of medications. However, the petitioner is not particularly good at following medical advice or taking medications, partly due to forgetfulness and partly due to plain stubbornness.
3. The petitioner has a set of dentures which don't work very well. His lower dentures are especially troublesome as they are loose and cause him pain when he chews. The result is he either swallows improperly digested food, limits himself to soft foods or just doesn't bother to eat.
4. In June of 1993, the petitioner's treating physician filled out a "Certificate of Medical Necessity for Dentures" in which he requested realignment and refitting of dentures to help deal with his weight loss through improved food intake. Accompanying that request was a note from the doctor stating that he had "lost about fifteen pounds in the last few years, despite normal lower and upper GI studies" and asking that the petitioner "be fit for lower dentures, as painful chewing is a frequent complaint".
5. The petitioner's request was denied in August of 1993, because "adult dentures are not covered under Medicaid". The petitioner thereafter applied for denture help under the General Assistance program

which was denied on September 15, 1993 due to his failure to prove that he had an emergency need.

6. On August 24, 1993, the petitioner's physician supplied a letter with details of the petitioner's weight loss and further stated:

To be fair, [petitioner's] complaints throughout the years have consisted primarily of anorexia and of early satiety. Various attempts to work this up, most recently an upper GI endoscopy in March of this year, showed severe gastritis. This would adequately explain his symptoms.

Nevertheless, I am sure if [petitioner] were able to eat a full variety of foods I would expect that would limit progression of his inanition and weight loss. I would expect that repair or replacement of his dentures would have the effect of limiting the progression of his weight loss. [Petitioner] has emphysema and a variety of other medical conditions working against him and, as you know is quite gaunt at this point in time. Good nutrition is, therefore, of particular importance in his case.

7. Following the hearing in this matter, the petitioner's physician was asked to submit information confirming that there were no methods short of dentures which might achieve the same result for him, such as nutritional supplements. On December 17, 1993, the physician replied that the petitioner had not been compliant with any of the medications prescribed in April for treatment of his severe gastritis. He reiterated that the petitioner was still experiencing pain from his dentures and stated that his problem was primarily anorexia. Because of that and because of the petitioner's non-compliance with medications in the past, he did not think that prescribing supplements would be sufficient to deal with the problems.

8. On December 23, 1993, the Department presented an opinion from the Medicaid Operations Chief who is a registered nurse stating that she had reviewed the evidence and that the request for dentures did not appear to be an emergency as that term is used in the General Assistance program. She also concluded that the petitioner "suffered from a chronic set of medical conditions which may be the cause of his weight loss and that dentures were not justified in his case".

9. Based on the above evidence, it is found that the petitioner has serious gastro-intestinal problems which have led to a significant loss in weight and to a general weakness of his body. Poor dentition has contributed to the problem, but it was primarily brought about by anorexia. However, it must also be found that treatment of his problem would be facilitated if he had dentures which fit and which would enable him to chew, without pain, the wide variety of foods which he needs to prevent further deterioration of his health. It must be concluded, therefore, that properly fitting dentures are a necessary part of the treatment of the petitioner's progressively worsening symptoms of malnutrition.

10. The finding in paragraph nine (9) makes it unnecessary to determine whether the petitioner's lack of dentition constitutes a medical emergency.

ORDER

The decision of the Department to deny denture coverage to the petitioner under the Medicaid program is reversed.

REASONS

The regulations at M621 do not act as a general prohibition against Medicaid coverage for dentures but rather proscribe their coverage only if they are requested for "rehabilitative, cosmetic, or elective procedures". The Board has determined that dentures are available if medically necessary to treat other conditions which are covered by Medicaid. See Fair Hearing No. 12,180.⁽¹⁾

The petitioner here is not asking for dentures for the sole purpose of rehabilitating or beautifying his dentition. He is asking for the dentures because he has a serious and progressively worsening gastro-intestinal disease which has led to his physical debilitation and which can be retarded, in part, by his ability to eat a wide variety of foods. There is nothing in the Medicaid regulations which suggest that Medicaid will not cover treatment for malnutrition and gastro-intestinal diseases. As the realignment or, if needed, replacement of his dentures is a necessary part of stopping the progression of his inanition and weight loss, it must be found to be a covered service.

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1. A surprise request was made by the Department to reconsider this prior interpretation at the Board meeting level (after the recommendation had been issued) accompanied by a previously unsubmitted state plan. The Board considered the state plan and determined that it did not change the prior result.