

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
FROM THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of	)	
	)	
T T	)	OAH No. 16-1030-MDX
_____	)	Agency No.

**DECISION**

**I. Introduction**

T T’s request for Medicaid authorization for a new lower denture was denied because under the applicable regulations, she was not eligible for a new lower denture. She appealed. At the hearing, Ms. T proved that the premature breakage of her denture was not her fault. A binding regulation, however, sets a strict limit on when a replacement denture will be covered by Medicaid. Therefore, the division’s denial of coverage is affirmed.

**II. Facts**

T T is a Medicaid recipient. She needs full dentures—both upper and lower. In February of 2013, T T was approved for the purchase of new dentures. She obtained both a lower and an upper plate from an Anchorage dentist.<sup>1</sup>

Two months later, in April 2013, her lower plate broke. She took the fractured plate back to the dentist who had manufactured it. She was told that Medicaid had already paid, so there was nothing he could do. She then visited another dentist, who verified that the plate was improperly manufactured and of poor quality. He took pictures of the plate to document the poor quality, sent the pictures to Medicaid, and made a request to Medicaid for authorization to manufacture a new denture. Medicaid denied this request. Ms. T superglued the plate together and had this dentist align the plate, which she paid out of pocket.<sup>2</sup>

Ms. T continued to use the denture for as long as possible. Now, however—three and a half years later—the bottom plate is in three pieces. It is no longer usable. Ms. T has had to live with no bottom teeth. She works in a public setting—a senior citizen retirement home. She finds being out in public with no bottom teeth to be embarrassing.<sup>3</sup>

Medicaid did pay for a relining, which involves replacing the interface of the denture with the gum, while keeping the teeth intact. That procedure, however, did not fix the underlying problem. Now that the plate is broken in three pieces, additional relining could not make the

---

<sup>1</sup> T testimony; Division Exhibit D at 1.  
<sup>2</sup> T testimony.  
<sup>3</sup> T testimony.

denture functional. Ms. T estimates that the cost of a new denture will be \$1200 to \$1700. She lives paycheck to paycheck. She cannot afford to pay for a new denture even if she is permitted to make payments over time.<sup>4</sup>

On August 8, 2016, Ms. T's current dentist, Z L, filed a request with Medicaid for authorization to build a new lower denture. The request noted that "Patient is diabetic. Need[s] her dentures to eat properly. 3 yr. old Lower denture is fractured. . . . She needs a new one."<sup>5</sup> The Division of Healthcare Services, through its agent, Xerox State Healthcare, LLC, denied the authorization.<sup>6</sup> Ms. T appealed.<sup>7</sup> A telephonic hearing was held on September 23, 2016.

### **III. Discussion**

Medicaid coverage for medical and dental services is governed by a strict set of regulations. Under these regulations, the Division may authorize a new set of dentures or a partial denture only once every five years.<sup>8</sup> Because Ms. T's denture was not over five-years old, the Division denied authorization for a new lower plate.

Ms. T explained that she totally understands the rules and regulations. In her view, however, Medicaid should pay for a replacement denture because (i) the original plate was defective; and (ii) she has done everything possible to resolve the issue on her own without any success. She agrees that the five-year limitation is appropriate for a quality denture—a well-made denture should last at least that long—longer if it is well-taken care of. Here, however, the denture, paid for by Medicaid, was of such poor quality that it should have been replaced within two months. In Ms. T's view, the facts here justify an exception to the five-year waiting period for a new denture.

Ms. T does not contest that her current denture is less than five-years old. The division does not contest that the failure of the denture was not Ms. T's fault.

The regulation relied upon by the division, 7 AAC 110.145, is binding law. The wording of the regulation does not permit any exceptions to the five-year rule.<sup>9</sup> No other regulation or statute allows for an exception. Ms. T is, essentially, asking for a ruling that the regulation means "only once per five calendar years unless the original denture was of poor quality and has become

---

<sup>4</sup> T testimony.

<sup>5</sup> Division Exhibit D at 2.

<sup>6</sup> Division Exhibit D at 1.

<sup>7</sup> Division Exhibit C at 1.

<sup>8</sup> 7 AAC 110.145(b)(6)(A).

<sup>9</sup> Under 7 AAC 110.145(b)(6)(A), "the department will pay . . . for the following dental services : . . (6) prosthodontics, including complete or partial dentures and denture repair or relines; the department will pay for (A) replacement of complete or partial dentures only once per five calendar years."

unusable through no fault of the applicant.” Her approach is understandable. We cannot, however, add words or terms to a regulation in this proceeding.<sup>10</sup> Changing the terms of the regulation can only occur during the rulemaking process. Because 7 AAC 110.145 is a binding rule that sets a strict standard for when a new denture may be covered, the division’s decision is affirmed.

**IV. Conclusion**

The division’s August 29, 2016, decision denying request for dental authorization is affirmed.

DATED this 9<sup>th</sup> day of November, 2016.

By: Signed \_\_\_\_\_  
Andrew M. Lebo  
Administrative Law Judge

**Adoption**

Under a delegation from the Commissioner of Health and Social Services and under the authority of AS 44.64.060(e)(1), I adopt this decision as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 23<sup>rd</sup> day of November, 2016.

By: Signed \_\_\_\_\_  
Name: Andrew M. Lebo  
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]

---

<sup>10</sup> C.f., e.g., *Hickel v. Cowper*, 874 P.2d 922, 927–28 (Alaska 1994) (“We are not vested with the authority to add missing terms or hypothesize differently worded provisions in order to reach a particular result.”).