

## Non-Adoption Options

The undersigned, by delegation from the Commissioner of Health and Social Services, and in accordance with AS 44.64.060(e)(3), revises the enforcement action, determination of best interest, order, award, remedy, sanction, penalty, or other disposition of the case as set forth below, and adopts the proposed decision as revised:

For Claim D554032 on page 7 of the proposed decision, the audit findings disallowing payment for a dental exam on July 19, 2010 are affirmed. Dr. Bartley failed to submit clinical documentation that a dental exam was administered on July 19, 2010. Indeed, the agency record contains no billing or treatment records for the subject patient for July 19, 2010. Because Dr. Bartley failed to provide the required documentation for the audited claim, the Division's decision was correct.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 17<sup>th</sup> day of May, 2018.

By: Signed \_\_\_\_\_  
Erin Shine  
Special Assistant to the Commissioner  
Department of Health and Social Services

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

In the Matter of )  
 )  
 JEFFREY BARTLEY ) OAH No. 15-0854-MDA  
 )  
 \_\_\_\_\_ )

**DECISION**

**I. Introduction**

Dr. Jeffrey Bartley practiced dentistry as an enrolled Alaska Medical Assistance (Medicaid) provider. As the result of an audit for the 2010 calendar year performed by the Department’s contracted auditor, Myers & Stauffer (M&S), the Department of Health and Social Services’ Program Integrity Unit (Program Integrity) seeks to recover overpayments from Dr. Bartley. Dr. Bartley challenged the overpayment findings and the matter was referred to the Office of Administrative Hearings. The hearing occurred over two days, December 6, 2017, and January 26, 2018, before Administrative Law Judge Bride Seifert. After her resignation, the undersigned reviewed the entire record and listened to the hearing before preparing a proposed decision.

The overpayment findings are affirmed in part and reversed in part.

**II. Factual Background and Evidence Considered**

Dr. Bartley practiced dentistry for 33 years.<sup>1</sup> He provided dental care for children and disabled individuals, many of whom were Medicaid eligible.<sup>2</sup> Dr. Bartley retired and sold his practice in 2013.<sup>3</sup> The sales contract included a term that required the new owner of the dental practice to allow access to patient records.<sup>4</sup> The new owner of the practice did not abide by that term.<sup>5</sup> The new owner also changed the records management system used by the practice.<sup>6</sup> Dr. Bartley struggled to access the former patient records at issue in this audit.<sup>7</sup> Many of the records he was able to recover were incomplete.<sup>8</sup>

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<sup>1</sup> Testimony of Dr. Jeffrey Bartley.  
<sup>2</sup> Bartley Testimony.  
<sup>3</sup> Bartley Testimony; Ex. A, Contract for Sale and Purchase of Assets.  
<sup>4</sup> Ex. A, Contract for Sale and Purchase of Assets.  
<sup>5</sup> Bartley Testimony.  
<sup>6</sup> Bartley Testimony.  
<sup>7</sup> Bartley Testimony.  
<sup>8</sup> Bartley Testimony.

Program Integrity allowed Dr. Bartley time to gain access to patient records. Nevertheless, due in large part to the lack of documentation, the audit resulted in overpayment findings for 47 of the 57 randomly selected claims.<sup>9</sup> The results of the audited sample were then statistically extrapolated to arrive at a total overpayment figure of \$326,507.17.<sup>10</sup> The parties worked to resolve the claims over the course of two years, and based on patient records submitted by Dr. Bartley over time, the auditors updated the overpayment findings.<sup>11</sup>

After the hearing, Program Integrity submitted an updated filing showing only the claims that were still in dispute. The following table summarizes the remaining claims and line items at issue.

<b>Claim</b>	<b>Division's Basis for Overpayment Findings</b>
D554001	<ul style="list-style-type: none"> <li>• No documentation that fluoride treatment was provided.</li> </ul>
D554007	<ul style="list-style-type: none"> <li>• No documentation that fluoride treatment was provided.</li> </ul>
D554009	<ul style="list-style-type: none"> <li>• No documentation that fluoride treatment was provided.</li> </ul>
D554013	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for a filling on tooth 7;</li> <li>• Insufficient documentation to establish the extent of service for fillings on teeth 7 and 8;</li> <li>• No documentation that a filling was provided on tooth 6.</li> </ul>
D554015	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for extractions of teeth A, P, and Q;</li> <li>• Insufficient documentation to establish medical necessity for fillings on teeth I, L, S, T, J, K, B, E, and F.</li> </ul>
D554018	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for a filling on tooth 9;</li> <li>• Insufficient documentation to establish the extent of service for fillings on teeth 7 and 9.</li> </ul>
D554019	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for fillings on teeth 19 and 20 and for a pulp cap on tooth 20;</li> <li>• Insufficient documentation to establish the extent of service for fillings on teeth 19 and 20;</li> </ul>

<sup>9</sup> Agency Record (AR) 31-48, 50.

<sup>10</sup> AR 49-50. This technique is discussed in *In re C Care Services LLC*, OAH No. 11-0015-DHS (Commissioner of Health & Soc. Serv. 2012) (<http://aws.state.ak.us/officeofadminhearings/Documents/MDA/DHS110015.pdf>). The auditor's extrapolation technique applies a statistical confidence interval that is highly favorable to providers.

<sup>11</sup> AR at 541. The total overpayment finding is less than \$89,381.32. See Program Integrity's Prehearing Brief at 1 n. 1; Program Integrity's Corrected List of Contested Overpayments.

	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish prior authorization for the pulp cap on tooth 20.</li> </ul>
D554024	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for an extraction on tooth 20;</li> <li>• No documentation that a dental exam was performed.</li> </ul>
D554025	<ul style="list-style-type: none"> <li>• No documentation that a sealant was administered on tooth 30.</li> </ul>
D554029	<ul style="list-style-type: none"> <li>• No documentation that a dental exam or dental cleaning was administered.</li> </ul>
D554031	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for endodontic therapy or core build-up treatment on tooth 14;</li> <li>• No documentation that a crown was installed on teeth 19 and 21.</li> </ul>
D554032	<ul style="list-style-type: none"> <li>• No documentation that a dental exam was performed.</li> </ul>
D554033	<ul style="list-style-type: none"> <li>• No documentation that a dental exam or dental cleaning was administered</li> </ul>
D554034	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for fillings on teeth K, I, and J;</li> <li>• Insufficient documentation to establish the extent of service for fillings on teeth K, I, and J.</li> </ul>
D554035	<ul style="list-style-type: none"> <li>• No documentation that fluoride treatment was provided.</li> </ul>
D554040	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for a filling on tooth 18;</li> <li>• No documentation that a sealant was provided on tooth 14 or a filling on tooth 18.</li> </ul>
D554041	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for fillings on teeth H, I, L, and K;</li> <li>• No documentation that fillings were provided on teeth 12 and 13.</li> </ul>
D554045	<ul style="list-style-type: none"> <li>• No documentation that fluoride treatment was provided.</li> </ul>
D554050	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for a filling on tooth L.</li> </ul>
D554056	<ul style="list-style-type: none"> <li>• Insufficient documentation to establish medical necessity for a filling on tooth 2;</li> <li>• Insufficient documentation to establish the extent of service for the filling on tooth 2;</li> <li>• Exceeding annual service limit.</li> </ul>
D554057	<ul style="list-style-type: none"> <li>• No documentation that fluoride treatment was provided.</li> </ul>

At the hearing, Program Integrity presented testimony from Kelly Robertson, Senior Nurse Consultant at M&S; and Mary Hansen, Dental Program and Hospital Program Manager of the Division of Healthcare Services. Dr. Bartley represented himself. In addition to his own testimony, Dr. Bartley presented testimony from Program Integrity Manager Douglas Jones. The following exhibits were admitted and considered: the numbered agency record and supplemental agency record, consisting of 650 pages; documents labeled Exhibits A-CC received from Dr. Bartley on April 17, 2017; Dr. Bartley's Exhibit A, a binder with tabs and documents submitted at the hearing on December 6; Dr. Bartley's Exhibits B-F submitted at the hearing on December 6; and Program Integrity's Exhibit 1, a table summarizing the claims at issue and cross-referencing to the agency record and tabs in Dr. Bartley's Exhibit A. Over objections by Program Integrity, diagrams of teeth drawn by Dr. Bartley during the hearing on December 6, were also admitted as Exhibit G. After the first day of hearing on December 6, 2017, Program Integrity submitted supplemental documents obtained from the Department's Health Care Services agent, Conduent—those records were also admitted without objection.

### **III. Discussion**

An overpayment occurs when the department pays a provider incorrectly for services that do not meet standards established for payment of services.<sup>12</sup> Federal law requires the department to seek recoupment of overpayments.<sup>13</sup> Program Integrity bears the burden of establishing overpayments.<sup>14</sup>

With respect to the individual overpayment findings on appeal, much of this case is about documentation, and none of it is about fraud. There does not seem to be any doubt that Dr. Bartley provided the services at issue. However, the mere fact that services were rendered does not entitle a provider to Medicaid reimbursement.

For all services, a Medicaid provider must meet certain regulatory requirements. The claims at issue here fall into five categories of overpayment: no documentation that the service was provided; insufficient documentation to establish medical necessity; insufficient documentation to establish extent of the service; no prior authorization for a service that requires it; and exceeding

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<sup>12</sup> 7 AAC 105.260.

<sup>13</sup> 42 CFR § 431.1002.

<sup>14</sup> See, e.g., *In re Accredo Health Group*, OAH No. 13-0622-MDA (Comm'r Health & Soc. Services 2014).

the annual service limit. Each claim, or where feasible, each category of claims, is discussed in turn below.

**A. No documentation of billed services**<sup>15</sup>

Medicaid providers must maintain records of the name of the recipient receiving treatment, the service provided, the extent of the service provided, the date it was provided, and the individual providing the service.<sup>16</sup> In general, payment will be denied if the required documentation has not been maintained. This is so even if it seems likely that the services billed, or at least some services, were actually rendered. This principle was explained in a prior decision of the Commissioner of Health and Social Services, *In re Alaska Children's Services, Inc.*,<sup>17</sup> in which funds were recouped from a conscientious provider because of substandard documentation, even though most, and possibly all, of the billed services had probably been performed. The only potential exception to strict adherence to documentation requirements is where failure to comply with some nuance of a documentation requirement is "so insubstantial that the department must consider the records complete."<sup>18</sup>

**1. *Claims D554001, D554007, D554009, D554035, D554045, D554057: No documentation that fluoride treatment was provided***

For Claims D554001,<sup>19</sup> D554007,<sup>20</sup> D554009,<sup>21</sup> D554035,<sup>22</sup> D554045,<sup>23</sup> and D554057,<sup>24</sup> Dr. Bartley billed for fluoride treatment, but the corresponding clinical records or treatment notes failed to show that the service was actually provided.<sup>25</sup>

Dr. Bartley argued that he would never bill for a service that he did not provide.<sup>26</sup> And he testified that unless a parent objected, he always provided fluoride treatment to children.<sup>27</sup>

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<sup>15</sup> Some of the claims with no documentation of billed services have concurrent grounds for overpayments. Those claims and their concurrent grounds are discussed separately.

<sup>16</sup> 7 AAC 105.230.

<sup>17</sup> OAH No. 13-0182-MDA (Comm'r of Health & Soc. Services 2014) (published at <http://aws.state.ak.us/officeofadminhearings/Documents/MDA/MDA130182.pdf>).

<sup>18</sup> *Alaska Children's Services*, Decision at 11.

<sup>19</sup> AR 404-405, 567-568, 628-629.

<sup>20</sup> AR 387-389, 569.

<sup>21</sup> AR 380-382, 570-572, 630-631.

<sup>22</sup> AR 466-468.

<sup>23</sup> AR 438-440, 599-600.

<sup>24</sup> AR 406-408, 605-606.

<sup>25</sup> AR 404-405, 567-568, 628-629; AR 387-389, 569; AR 380-382, 570-572, 630-631; AR 466-468; AR 438-440, 599-600; and AR 406-408, 605-606 (records for Claims D554001, D554007, D554009, D554035, D554045, and D554057).

<sup>26</sup> Bartley Testimony.

<sup>27</sup> Bartley Testimony.

Dr. Bartley explained that the water in Anchor Point is not fluorinated, and the American Dental Association recommends fluoride treatment.<sup>28</sup> As discussed above, however, the issue for these overpayment findings is not about fraud. Nor is the issue for Claims D554001, D554007, D554009, D554035, D554045, and D554057 about medical necessity. Dr. Bartley credibly testified that providing fluoride treatment, as recommended by the American Dental Association, was standard practice for his children patients, and there is no reason to doubt that he did so.

Instead, the issue is whether Dr. Bartley maintained and provided the required documentation for these claims. He did not. The documentation requirement is not onerous. Indeed, Dr. Bartley noted fluoride treatments in records for other patients.<sup>29</sup> The audit findings disallowing Claims D554001, D554007, D554009, D554035, D554045, and D554057 for failing to document that fluoride treatment was provided are affirmed.

**2. Claim D554025: No documentation that a sealant was administered on tooth 30**

For Claim D554025, Dr. Bartley billed for a sealant on tooth 30,<sup>30</sup> but like the contested claims for fluoride treatment, the corresponding clinical notes make no mention of a sealant.<sup>31</sup> Because Dr. Bartley failed to provide the required documentation, the audit findings disallowing payment for the sealant in Claim D554025 are affirmed.

**3. Claims D554029, D554032, and D554033: No documentation that a dental exam and/or dental cleaning was administered**

For Claims D554029 and 554033, Program Integrity claims that there is insufficient documentation that a dental exam and cleaning were administered.<sup>32</sup> Dr. Bartley billed for a dental exam and dental cleaning on June 21, 2010 (for claim D554029)<sup>33</sup> and August 23, 2010 (for Claim D554033).<sup>34</sup> The record contains x-rays for both dates of service, but no corresponding clinical notes or treatment records for the Medicaid recipients on the dates of

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<sup>28</sup> Bartley Testimony; *see also* Bartley Ex. F (submitted on April 11, 2017).

<sup>29</sup> Compare AR 401, 411, 427, 435, 460, 472, 477 (records documenting fluoride treatment) with AR 404-405, 567-568, 628-629; AR 387-389, 569; AR 380-382, 570-572, 630-631; AR 466-468; AR 438-440, 599-600; and AR 406-408, 605-606 (records for Claims D554001, D554007, D554009, D554035, D554045, and D554057).

<sup>30</sup> AR 501.

<sup>31</sup> AR 500. Compare to AR 435, 452, 460, 469, 472, 477 (records documenting sealant).

<sup>32</sup> Corrected List of Contested Overpayments at 2; *see also* AR 38.

<sup>33</sup> AR 488.

<sup>34</sup> AR 475.

service for either claim.<sup>35</sup> Other than the billing ledgers, there are no notes in the record showing that the exams or cleanings were performed.<sup>36</sup>

For Claim 554032, Program Integrity likewise claims that there is insufficient documentation that a dental exam was administered, but the state of the documentation is somewhat different from the other two claims in this category.<sup>37</sup> The date of the claim for the alleged overpayment is unclear. The detail report for the M&S audit indicates overpayment for claims dated July 19, 2010,<sup>38</sup> but in the comments, the report states, “No clinical documentation was submitted for the date of service 8/2/2010.”<sup>39</sup> The agency record contains no billing or treatment records for the subject patient for July 19, 2010. But Dr. Bartley billed, and the agency record includes clinical notes, for a dental exam and cleaning on August 2, 2010.<sup>40</sup> Those records clearly show that an exam or a “comprehensive oral evaluation” was performed on the subject Medicaid recipient on August 2, 2010.<sup>41</sup>

Dr. Bartley documented a dental exam for Claim 554032; therefore, the audit findings disallowing payment for the dental exam in Claim 554032 are reversed.<sup>42</sup> Because Dr. Bartley failed to provide the required documentation for Claims D554029 and D554033, the audit findings disallowing payment for those dental exams and cleanings are affirmed.

**B. Claim D554013: Insufficient documentation to establish medical necessity for a filling on tooth 7; insufficient documentation to establish extent of service for fillings on teeth 7 and 8; and no documentation that a filling was provided on tooth 6**

***1. Insufficient documentation to establish medical necessity for a filling on tooth 7***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554013 was insufficient to establish medical necessity for a filling on tooth 7.<sup>43</sup> In particular, Program Integrity claimed that the clinical notes described the procedure, but they failed to

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<sup>35</sup> AR 486-488, 581-584; 472-476, 588-589.

<sup>36</sup> AR 486-488, 581-584. *Compare to* notes on June 1, 2009, December 28, 2009, December 20, 2010, July 19, 2012, and November 28, 2012. AR 472-476, 588-589. *Compare to* notes on May 9, 2008, February 23, 2010, November 21, 2011, and March 13, 2013. AR 472-473.

<sup>37</sup> Corrected List of Contested Overpayments at 2.

<sup>38</sup> AR 39.

<sup>39</sup> AR 39.

<sup>40</sup> AR 477-479, 587.

<sup>41</sup> AR 477, 587.

<sup>42</sup> At the hearing, Dr. Bartley disputed payment of Claim D554032. After the hearing, Program Integrity submitted “Remittance Advices” showing that Claim D554032 was paid. Notice of Filing Remittance Advices, Attachment 4.

<sup>43</sup> Corrected List of Contested Overpayments at 1; *see also* AR 34.



document any disease process, complaint, or injury to support the medical need for the filling.<sup>44</sup>

Kelly Robertson, Senior Nurse Consultant at M&S, testified that when doing an audit, M&S will look at prior records for any notes about disease process, complaint, or injury that support the medical need for a service.<sup>45</sup> In this case, the records show that Dr. Bartley performed a comprehensive oral evaluation and took x-rays on April 30, 2010.<sup>46</sup> At that exam, Dr. Bartley noted “lots of decay” and marked teeth 7 and 8 on the computerized tooth diagram.<sup>47</sup> At the hearing, Dr. Bartley testified that he creates the computerized tooth diagram during the exams, and then as he provides dental treatment, the tasks for each tooth are entered into the computer program and the teeth in the diagram change color, showing which treatment has been performed.<sup>48</sup> I conclude that this is sufficient documentation of the medical necessity for the filling on tooth 7. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the fillings provided on tooth 7 in Claim D554013 are reversed.

## ***2. Insufficient documentation to establish extent of service for fillings on teeth 7 and 8***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554013 was also insufficient to establish the extent of services for fillings on teeth 7 and 8.<sup>49</sup> More specifically, Program Integrity claimed that Dr. Bartley billed for fillings on three surfaces for tooth 7 and one surface for tooth 8, but he failed to document the surface code (i.e. which tooth surface) for the fillings that were provided.<sup>50</sup>

The computerized tooth diagram created for the April 30, 2010 exam shows shading across the entire anterior surface of tooth 7 and at a small surface at the gum line on the anterior surface of tooth 8.<sup>51</sup> At the hearing, Dr. Bartley drew diagrams of teeth and explained that the shading across the front of tooth 7 indicates three surfaces (i.e. mesial, distal, and facial), and the shading on tooth 8 indicates one surface (i.e. facial).<sup>52</sup> In addition, the patient

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<sup>44</sup> Testimony of Kelly Robertson.

<sup>45</sup> Robertson Testimony.

<sup>46</sup> AR 369-370, 573, 626.

<sup>47</sup> AR 573, 626.

<sup>48</sup> Bartley Testimony.

<sup>49</sup> Corrected List of Contested Overpayments at 1; *see also* AR 34.

<sup>50</sup> Robertson Testimony.

<sup>51</sup> AR 369-370, 573, 626.

<sup>52</sup> Bartley Testimony; AR 573; Ex. G (admitted at hearing).

progress notes identify the surfaces treated by code: MDF5 for tooth 7 and F5 for tooth 8.<sup>53</sup> Dr. Bartley provided a key for deciphering the surface codes in his records: mesial, distal, facial for tooth 7 and facial for tooth 8.<sup>54</sup> I conclude that this is sufficient documentation of the extent of services provided for the fillings on teeth 7 and 8. Accordingly, the audit findings disallowing payment for failure to provide documentation of extent of services for the fillings provided on teeth 7 and 8 in Claim D554013 are reversed.

### *3. No documentation that a filling was provided on tooth 6*

Dr. Bartley admitted at hearing that he failed to document the filling provided on tooth 6 for this claim.<sup>55</sup> He explained that sometimes he did not see decay on a tooth until he started working on an adjacent tooth.<sup>56</sup> When that happened, he typically performed the needed service and informed his office staff who then recorded the service.<sup>57</sup> Because Dr. Bartley failed to provide the required documentation, the audit findings disallowing payment for the filling provided on tooth 6 in Claim D554013 are affirmed.<sup>58</sup>

#### **C. Claim D554015: Insufficient documentation to establish medical necessity for extractions of teeth A, P, and Q; and insufficient documentation to establish medical necessity for fillings on teeth I, L, S, T, J, K, B, E, and F**

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554015 was insufficient to establish medical necessity for extractions of teeth A, P, and Q and for fillings on teeth I, L, S, T, J, K, B, E, and F.<sup>59</sup> In particular, Program Integrity claimed that the clinical notes for the date of service or any prior date of service failed to document any disease process, complaint, or injury to support the medical need for the extractions or fillings.<sup>60</sup>

According to the records, Dr. Bartley saw the subject patient on December 23, 2009, when he performed an exam and cleaning, took x-rays, and provided a fluoride treatment.<sup>61</sup> At the hearing, Dr. Bartley explained that the patient was a 6-year-old girl, who was

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<sup>53</sup> Bartley Testimony; AR 574.

<sup>54</sup> AR 356.

<sup>55</sup> Bartley Testimony.

<sup>56</sup> Bartley Testimony.

<sup>57</sup> Bartley Testimony.

<sup>58</sup> At the hearing, Dr. Bartley disputed payment of Claim D554013. After the hearing, Program Integrity submitted "Remittance Advices" showing that Claim D554013 was paid. Notice of Filing Remittance Advices, Attachment 1.

<sup>59</sup> Corrected List of Contested Overpayments at 1; *see also* AR 34.

<sup>60</sup> Robertson Testimony.

<sup>61</sup> AR 523.

uncooperative and would not open her mouth, so he scheduled her for a hospital visit.<sup>62</sup> He said that once he got her to the hospital under general anesthesia, he was able to take x-rays.<sup>63</sup> Dr. Bartley submitted an operative report, explaining the procedures performed, but the records do not explain any disease process, injury, or complaint to justify the medical necessity of the extractions or the fillings.<sup>64</sup> Dr. Bartley did not note decay or provide a computerized diagram of the patient's teeth that would shed any light on why the services were necessary.<sup>65</sup> Nor did he produce copies of the x-rays.<sup>66</sup> I conclude that this is not sufficient documentation of the medical necessity for the extractions of teeth A, P, and Q and the fillings on teeth I, L, S, T, J, K, B, E, and F. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the extractions of teeth A, P, and Q and the fillings on teeth I, L, S, T, J, K, B, E, and F in Claim D554015 are affirmed.

**D. Claim D554018: Insufficient documentation to establish medical necessity for a filling on tooth 9; and insufficient documentation to establish extent of service for fillings on teeth 7 and 9<sup>67</sup>**

***1. Insufficient documentation to establish medical necessity for a filling on tooth 9***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554018 does not sufficiently establish medical necessity for a filling on tooth 9.<sup>68</sup> In the audit report, Program Integrity claimed that the clinical notes failed to provide any diagnostic information or patient history to support the medical need for the fillings on tooth 9.<sup>69</sup>

But the records here show that Dr. Bartley performed a comprehensive oral evaluation and took x-rays on August 11, 2010.<sup>70</sup> At that exam, Dr. Bartley marked tooth 9 for treatment on the computerized tooth diagram.<sup>71</sup> And Dr. Bartley submitted a copy of the x-ray he took on August 11, 2010.<sup>72</sup> I conclude that this is sufficient documentation to support the medical

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<sup>62</sup> Bartley Testimony.

<sup>63</sup> Bartley Testimony.

<sup>64</sup> AR 523-525, 607.

<sup>65</sup> AR 523-525, 607.

<sup>66</sup> AR 523-525, 607.

<sup>67</sup> At the hearing, Dr. Bartley disputed payment of Claim D554018. After the hearing, Program Integrity submitted "Remittance Advices" showing that Claim D554018 was paid. Notice of Filing Remittance Advices, Attachment 2.

<sup>68</sup> Corrected List of Contested Overpayments at 2; *see also* AR 35.

<sup>69</sup> AR 35.

<sup>70</sup> AR 575.

<sup>71</sup> AR 575.

<sup>72</sup> AR 517.

necessity for the filling on tooth 9. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the filling to tooth 9 in Claim D554018 are reversed.

***2. Insufficient documentation to establish extent of service for fillings on teeth 7 and 9***

Program Integrity claimed that Dr. Bartley failed to sufficiently document the extent of services for fillings on teeth 7 and 9 in Claim D554018.<sup>73</sup> More specifically, Program Integrity claimed that Dr. Bartley failed to document the surfaces of the fillings that were provided for teeth 7 and 9.<sup>74</sup>

The computerized tooth diagram created for the August 11, 2010 exam shows shading on the right, anterior and back sides of tooth 7 and across the entire anterior surface of tooth 9.<sup>75</sup> As discussed, at the hearing, Dr. Bartley drew diagrams of teeth and explained that the shading across the front of tooth 9 indicates three surfaces, and that the shading on tooth 7 indicates two surfaces.<sup>76</sup> In addition, the patient progress notes identify the surface codes: MF5 for tooth 7 and MDF for tooth 9.<sup>77</sup> According to the surface code key, Dr. Bartley provided fillings on the mesial and facial surfaces for tooth 7 and the mesial, distal, and facial surfaces for tooth 9.<sup>78</sup> I conclude that this is sufficient documentation of the extent of services provided for the fillings on teeth 7 and 9. Accordingly, the audit findings disallowing payment for failure to provide documentation of extent of services for the fillings provided on teeth 7 and 9 in Claim D554018 are reversed.

**E. Claim D554019: Insufficient documentation to establish medical necessity for fillings on teeth 19 and 20 and for a pulp cap on tooth 20; insufficient documentation to establish extent of service for fillings on teeth 19 and 20; and insufficient documentation to establish prior authorization for the pulp cap on tooth 20**

***1. Insufficient documentation to establish medical necessity for fillings on teeth 19 and 20 and for a pulp cap on tooth 20***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554019 did not establish medical necessity for fillings on teeth 19 and 20 and for a pulp cap

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<sup>73</sup> Corrected List of Contested Overpayments at 1; *see also* AR 34.

<sup>74</sup> AR 34.

<sup>75</sup> AR 575.

<sup>76</sup> Bartley Testimony; AR 575; Ex. G (admitted at hearing).

<sup>77</sup> Bartley Testimony; AR 576.

<sup>78</sup> AR 356.

on tooth 20.<sup>79</sup> More specifically, Program Integrity claimed that the clinical notes do not provide any diagnostic information or patient history to support the medical need for the fillings on teeth 19 and 20 and pulp cap for tooth 20.<sup>80</sup>

The records here show that Dr. Bartley performed a comprehensive oral evaluation and took x-rays on October 18, 2010.<sup>81</sup> At that exam, Dr. Bartley noted that tooth 20 might require a root canal, and he marked teeth 19 and 20 for treatment on the computerized tooth diagram.<sup>82</sup> In the clinical records for the date of service, Dr. Bartley noted the decay to tooth 20 was “very deep.”<sup>83</sup> Dr. Bartley did not, however, submit a copy of the x-rays. And none of the records document any disease process, complaint, or injury to tooth 19. I conclude that this documentation is sufficient to support the medical necessity for the filling and pulp cap for tooth 20, but it is not sufficient to establish the medical necessity for the filling to tooth 19. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the filling and pulp cap to tooth 20 in Claim D554019 are reversed.<sup>84</sup> The findings for failure to document medical necessity for the filling to tooth 19 in Claim D554019 are affirmed.

## ***2. Insufficient documentation to establish extent of service for fillings on teeth 19 and 20***

Program Integrity claimed that Dr. Bartley’s documentation for Claim D554018 was insufficient to establish the extent of services for fillings on teeth 19 and 20.<sup>85</sup> More specifically, Program Integrity claimed that Dr. Bartley failed to document the surfaces of the fillings that were provided.<sup>86</sup>

The computerized tooth diagram created for the October 18, 2010 exam shows shading on the occlusal parts of teeth 19 and 20.<sup>87</sup> In addition, the patient progress notes document that Dr. Bartley used resin composite fillings on the MOD (mesial, occlusal, distal) surfaces for both teeth.<sup>88</sup> I conclude that this is sufficient documentation of the extent of services provided

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<sup>79</sup> Corrected List of Contested Overpayments at 2; *see also* AR 36.

<sup>80</sup> AR 36.

<sup>81</sup> AR 577.

<sup>82</sup> AR 577.

<sup>83</sup> AR 514, 578.

<sup>84</sup> As discussed below, the overpayment finding for the pulp cap to tooth 20 is nevertheless affirmed for the concurrent ground of failing to establish prior authorization.

<sup>85</sup> Corrected List of Contested Overpayments at 2; *see also* AR 36.

<sup>86</sup> AR 36.

<sup>87</sup> AR 577; Bartley Testimony; Ex. G (admitted at hearing).

<sup>88</sup> AR 578; *see also* AR 356.

for the fillings on teeth 19 and 20. Accordingly, the audit findings disallowing payment for failure to provide documentation of extent of services for the fillings provided on teeth 19 and 20 in Claim D554019 are reversed. (As discussed above, the overpayment finding for the filling to tooth 19 is nevertheless affirmed for the concurrent ground of failing to provide sufficient documentation of medical necessity.)

**3. *Insufficient documentation to establish prior authorization for the pulp cap on tooth 20***

Program Integrity found an overpayment for the pulp cap on tooth 20 in Claim D554019 because Dr. Bartley failed to get prior authorization.<sup>89</sup> Alaska regulation 7 AAC 110.145 requires prior authorization for endodontics, pulp capping.<sup>90</sup>

There is no dispute that Dr. Bartley did not receive prior authorization for this claim.<sup>91</sup> He, instead, gave credible testimony that it was not feasible to get prior authorization because he did not know how deep the decay was in tooth 20 until he got in there to do the filling.<sup>92</sup> Nevertheless, Medicaid does provide a procedure for providers to obtain “retroactive pre-authorization” for situations like this, where it is not possible or practical to obtain authorization before rendering the service.<sup>93</sup> Dr. Bartley obtained neither prior authorization nor retractive pre-authorization for the pulp cap on tooth 20 in Claim D554019. Accordingly, the audit findings disallowing payment for failure to obtain prior authorization for the pulp cap to tooth 20 in Claim D554019 are affirmed.

**F. Claim D554024: Insufficient documentation to establish medical necessity for an extraction on tooth 20; and no documentation that a dental exam was performed**

**1. *Insufficient documentation to establish medical necessity for an extraction on tooth 20***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554024 was insufficient to establish medical necessity for the extraction of tooth 20—that the clinical notes failed to document any diagnostic information or patient history to support the medical need for the extraction.<sup>94</sup>

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<sup>89</sup> Corrected List of Contested Overpayments at 2; *see also* AR 36.

<sup>90</sup> 7 AAC 110.145(b)(4)(B), (i).

<sup>91</sup> Bartley Testimony.

<sup>92</sup> Bartley Testimony.

<sup>93</sup> Testimony of Mary Hansen.

<sup>94</sup> Corrected List of Contested Overpayments at 2; *see also* AR 37.

According to the Patient Progress Notes for the date of service, Dr. Bartley performed a limited exam, where he noted an erupted tooth and exposed root on tooth 20.<sup>95</sup> At the hearing, Dr. Bartley explained that the patient was an ex-drug user, who sought dental care only when he was in pain.<sup>96</sup> I conclude that the documentation provided by Dr. Bartley, which describes the disease process as an erupted tooth and exposed root, is sufficient to show the medical necessity for the extraction of tooth 20. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the extraction of tooth 20 in Claim D554024 are reversed.

***2. No documentation that a dental exam was performed***

Program Integrity also claims that the records are not sufficient to document that a dental exam was performed on April 12, 2010.<sup>97</sup> Dr. Bartley billed for a limited oral evaluation on April 12, 2010.<sup>98</sup> The record contains patient progress notes with a copy of the computerized tooth diagram for the patient.<sup>99</sup> The Patient Progress Notes for the date of service note that Dr. Bartley performed a limited exam, where he noted an erupted tooth and exposed root on tooth 20.<sup>100</sup> The progress notes also indicate that Dr. Bartley planned to extract more teeth (teeth 29-31) on the patient's next visit.<sup>101</sup> I conclude that this is sufficient documentation to show that Dr. Bartley performed a limited examination on the patient on April 12, 2010. Accordingly, the audit findings disallowing payment for failure to provide documentation of the medical exam in Claim D554024 are reversed.

**G. Claim D554031: Insufficient documentation to establish medical necessity for endodontic therapy or core build-up treatment on tooth 14; and no documentation that a crown was installed on teeth 19 and 21**

***1. Insufficient documentation to establish medical necessity for endodontic therapy or core build-up treatment on tooth 14***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554031 failed to establish medical necessity for endodontic therapy or core build-up treatment on tooth 14.<sup>102</sup> More specifically, according to Program Integrity, the clinical notes

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<sup>95</sup> AR 503.

<sup>96</sup> Bartley Testimony.

<sup>97</sup> Corrected List of Contested Overpayments at 2; *see also* AR 37.

<sup>98</sup> AR 475.

<sup>99</sup> AR 579-580.

<sup>100</sup> AR 579.

<sup>101</sup> AR 579.

<sup>102</sup> Corrected List of Contested Overpayments at 2; *see also* AR 39.

do not document any diagnostic information or patient history to support the medical need for the extraction.<sup>103</sup>

The records here show that Dr. Bartley performed an exam and took x-rays of the subject patient on December 29, 2009.<sup>104</sup> At that time Dr. Bartley noted that he would perform a root canal on tooth 14 at the patient's next visit.<sup>105</sup> On January 11, 2010, Dr. Bartley performed a root canal (endodontic therapy) and core buildup on tooth 14.<sup>106</sup> Dr. Bartley explained at the hearing that core buildup is the filling that is placed after a root canal.<sup>107</sup> Unfortunately, none of the records submitted document any disease process, complaint, or injury to tooth 14. At the hearing, Dr. Bartley testified that a 2009 x-ray showed a lesion on tooth 14.<sup>108</sup> Dr. Bartley did not, however, submit a copy of the 2009 x-ray.<sup>109</sup> And the record does not contain a copy of any computerized tooth diagram created for the December 29, 2009 exam.<sup>110</sup> The only computerized tooth diagram in the record for this patient does not have any shading for tooth 14.<sup>111</sup> I conclude that this documentation is not sufficient to establish the medical necessity for the endodontic therapy and core buildup to tooth 14. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the endodontic therapy and core buildup in Claim D554031 are affirmed.<sup>112</sup>

## ***2. No documentation that a crown was installed on teeth 19 and 21***

On its Corrected List of Contested Overpayments, Program Integrity claimed that Dr. Bartley failed to provide documentation that a crown was installed on teeth 19 and 21 for Claim D554031.<sup>113</sup> But at the hearing, Program Integrity removed all overpayment findings for teeth 19 and 21.<sup>114</sup> Accordingly, the audit findings disallowing payment for failure to provide documentation that a crown was installed on teeth 19 and 21 in Claim D554031 are reversed.

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<sup>103</sup> AR 37.

<sup>104</sup> AR 480.

<sup>105</sup> AR 480.

<sup>106</sup> AR 480, 585.

<sup>107</sup> Bartley Testimony.

<sup>108</sup> Bartley Testimony.

<sup>109</sup> Bartley Testimony.

<sup>110</sup> AR 480-482, 585-586.

<sup>111</sup> AR 585.

<sup>112</sup> At the hearing, Dr. Bartley questioned whether the root canal was paid for by Medicaid. After the hearing, Program Integrity submitted "Remittance Advices" showing that Claim D554031 was paid. Notice of Filing Remittance Advices, Attachment 3.

<sup>113</sup> Corrected List of Contested Overpayments at 2.

<sup>114</sup> Hearing Recording on January 26, 2018.



**H. Claim D554034: Insufficient documentation to establish medical necessity for fillings on teeth K, I, and J; and insufficient documentation to establish extent of service for fillings on teeth K, I, and J**

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554034 was insufficient to establish medical necessity and extent of service for fillings on teeth K, I, and J.<sup>115</sup> In particular, Program Integrity claimed that the clinical notes for the date of service or any prior date of service failed to document any diagnostic information or patient history to support medical need for the fillings.<sup>116</sup> Further, the records do not identify the surface codes for each filling.<sup>117</sup>

Dr. Bartley submitted clinical notes, stating that he completed fillings for teeth I, J, and K, but the records do not explain any disease process, injury, or complaint to justify the medical necessity of the fillings.<sup>118</sup> Dr. Bartley submitted x-rays, but there is no date or corresponding record from which to infer when those x-rays were taken.<sup>119</sup> Dr. Bartley did not note decay or provide a computerized diagram of the patient's teeth that would shed any light on why the fillings were necessary.<sup>120</sup> The patient ledger shows the number of surfaces for each filling, but none of the records identify the surfaces for each filling.<sup>121</sup> I conclude that this documentation is not sufficient to establish the medical necessity or the extent of service for the fillings to teeth I, J, and K. Accordingly, the audit findings disallowing payment for the fillings on teeth I, J, and K in Claim D554034 are affirmed.

**I. Claim D554040: Insufficient documentation to establish medical necessity for a filling on tooth 18; and no documentation that a sealant was provided on tooth 14 or a filling on tooth 18**

***1. Insufficient documentation to establish medical necessity for a filling on tooth 18***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554040 was insufficient to establish medical necessity for a filling on tooth 18.<sup>122</sup> Program

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<sup>115</sup> Corrected List of Contested Overpayments at 3; *see also* AR 40. Children's teeth are labeled with letters instead of numbers. Bartley Testimony.

<sup>116</sup> AR 40.

<sup>117</sup> AR 40.

<sup>118</sup> AR 469-471.

<sup>119</sup> No record that x-rays were taken on the date of service.

<sup>120</sup> AR 469-471; *see also* Bartley Testimony.

<sup>121</sup> Bartley Testimony; AR 469-471.

<sup>122</sup> Corrected List of Contested Overpayments at 3; *see also* AR 42.

Integrity explained that the clinical notes failed to provide any diagnostic information or patient history to support the medical need for the filling.<sup>123</sup>

The records here show that Dr. Bartley performed an exam, x-rays, and cleaning on September 1, 2010.<sup>124</sup> At that exam, Dr. Bartley provided a sealant for tooth 19 and noted that the filling for tooth 18 was done at the patient's last visit.<sup>125</sup> Dr. Bartley submitted a copy of the x-rays done on September 1, 2010.<sup>126</sup> But that x-ray was taken after the filling was done, and none of the records document any disease process, complaint, or injury to tooth 18.<sup>127</sup> Dr. Bartley did not note decay, and the computerized diagram of the patient's teeth—which also appears to have been created after the filling was done—does not shed any light on why the filling was necessary.<sup>128</sup> I conclude that this documentation is not sufficient to support the medical necessity for the filling to tooth 18. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the filling to tooth 18 in Claim D554040 are affirmed.

***2. No documentation that a sealant was provided on tooth 14 or a filling on tooth 18***

Program Integrity also claims that there is no documentation that a sealant was provided on tooth 14 or that a filling was performed on tooth 18.<sup>129</sup> The record contains patient progress notes with a copy of the computerized tooth diagram for the patient.<sup>130</sup> Although the computerized tooth diagram is faint, it shows an “S” under tooth 14 and it shows shading on the occlusal and buccal parts of tooth 18.<sup>131</sup> In addition, the patient progress notes document that Dr. Bartley provided a sealant for tooth 14 and used a resin composite filling on the OB (occlusal, buccal) surfaces for tooth 18.<sup>132</sup> The clinical record notes that the filling was performed at the patient's previous visit.<sup>133</sup> And Dr. Bartley testified that this patient was one of his employee's children, for whom he generally provided free dental care after-hours.<sup>134</sup>

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<sup>123</sup> AR 42.  
<sup>124</sup> AR 452.  
<sup>125</sup> AR 452.  
<sup>126</sup> AR 453.  
<sup>127</sup> AR 453.  
<sup>128</sup> AR 592.  
<sup>129</sup> Corrected List of Contested Overpayments at 3; *see also* AR 42.  
<sup>130</sup> AR 592.  
<sup>131</sup> AR 592; Bartley Testimony; Ex. G (admitted at hearing).  
<sup>132</sup> AR 592.  
<sup>133</sup> AR 452.  
<sup>134</sup> Bartley Testimony.

I conclude that this is sufficient documentation that the filling for tooth 18 and the sealant on tooth 14 were provided. Accordingly, the audit findings disallowing payment for failure to provide documentation of services for the filling provided on tooth 18 and the sealant to tooth 14 in Claim D554040 are reversed. (The subsequent overpayment finding for the filling to tooth 18 is nonetheless affirmed for the concurrent ground of failing to provide sufficient documentation of medical necessity, as discussed above.)

**J. Claim D554041: Insufficient documentation to establish medical necessity for fillings on teeth H, I, L, and K; and no documentation that fillings were provided on teeth 12 and 13**

***1. Insufficient documentation to establish medical necessity for fillings on teeth H, I, L, and K***

Program Integrity claimed that Dr. Bartley failed to sufficiently document the medical necessity for the fillings on teeth H, I, L, and K for Claim D554041.<sup>135</sup> Program Integrity reasoned that the clinical notes failed to provide any diagnostic information or patient history to support the medical need for the fillings.<sup>136</sup>

The records here show that Dr. Bartley performed a comprehensive oral evaluation, x-rays, and cleaning on August 9, 2010.<sup>137</sup> At that exam, Dr. Bartley created a computerized tooth diagram with shading on teeth H, I, L, and K.<sup>138</sup> Dr. Bartley submitted copies of the x-rays taken on August 9, 2010.<sup>139</sup> At the hearing, Dr. Bartley showed on the x-rays where the teeth had decay or holes.<sup>140</sup> I conclude that this documentation is sufficient to support the medical necessity for the fillings to teeth H, I, L, and K. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the fillings to teeth H, I, L, and K in Claim D554041 are reversed.

***2. No documentation that fillings were provided on teeth 12 and 13***

On its Corrected List of Contested Overpayments, Program Integrity claimed that Dr. Bartley failed to provide documentation that fillings were provided on teeth 12 and 13 for Claim D554041.<sup>141</sup> But there are no claims or documents in the agency record matching

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<sup>135</sup> Corrected List of Contested Overpayments at 3; *see also* AR 42.

<sup>136</sup> AR 42.

<sup>137</sup> AR 594.

<sup>138</sup> AR 594.

<sup>139</sup> AR 450; Bartley Ex. A, Tab 13 (RA000127-131).

<sup>140</sup> Bartley Testimony; Bartley Ex. A, Tab 13 (RA000131).

<sup>141</sup> Corrected List of Contested Overpayments at 3.

fillings on teeth 12 and 13 for Claim D554041.<sup>142</sup> This is a clerical error.<sup>143</sup> Accordingly, there is no basis for finding an overpayment for fillings on teeth 12 and 13 for D554041, and any such findings disallowing payment are reversed.

At the hearing, the parties acknowledged that the fillings for teeth 12 and 13 match Claim D554044.<sup>144</sup> Program Integrity appears to have abandoned its overpayment findings for Claim D554044.<sup>145</sup> Even so, Dr. Bartley provided sufficient documentation to show that fillings for teeth 12 and 13 were provided for Claim D554044. Progress notes for the date of service show the teeth, the surfaces (MOD or mesial, occlusal, and distal), and the type of fillings (one-surface, resin composite) provided on June 16, 2010.<sup>146</sup> Accordingly, if any overpayment findings for the fillings on teeth 12 and 13 for Claim D554044 remain in dispute, they are also reversed.

**K. Claim D554050: Insufficient documentation to establish medical necessity for a filling on tooth 3**<sup>147</sup>

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554050 was insufficient to establish medical necessity for the filling on tooth 3.<sup>148</sup> Program Integrity claimed that the clinical notes provide no diagnostic information or patient history to support the medical need for the filling.<sup>149</sup>

The records show that Dr. Bartley performed an exam and took x-rays on June 23, 2010.<sup>150</sup> At that exam, Dr. Bartley created a computerized tooth diagram with shading on tooth 3.<sup>151</sup> Dr. Bartley submitted copies of the x-rays taken on June 23, 2010.<sup>152</sup> At the hearing, Dr. Bartley showed where the tooth had decay or shading on the lingual surface of tooth 3 on the diagram.<sup>153</sup> I conclude that this documentation is sufficient to support the medical necessity for the filling to tooth 3. Accordingly, the audit findings disallowing payment

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<sup>142</sup> Hearing Recording on January 26, 2018.

<sup>143</sup> Hearing Recording on January 26, 2018.

<sup>144</sup> Hearing Recording on January 26, 2018.

<sup>145</sup> Corrected List of Contested Overpayments at 3.

<sup>146</sup> AR 598.

<sup>147</sup> The Corrected List of Contested Overpayments identifies the tooth as Tooth L; however, this was a typographical error. On the date of service for the claim at issue, the only tooth for which there was a charge was tooth 3. There was a filling on the “L” surface of tooth 3. Bartley Testimony.

<sup>148</sup> Corrected List of Contested Overpayments at 3; *see also* AR 46.

<sup>149</sup> AR 46.

<sup>150</sup> AR 601.

<sup>151</sup> AR 601.

<sup>152</sup> AR 425; Bartley Ex. A, Tab 15 (RA000141-148).

<sup>153</sup> Bartley Testimony; AR 601.

for failure to provide documentation of medical necessity for the filling to tooth 3 in Claim D554050 are reversed.

**L. Claim D554056: Insufficient documentation to establish medical necessity for a filling on tooth 2; insufficient documentation to establish extent of service for the filling on tooth 2; and exceeding the annual service limit**<sup>154</sup>

***1. Insufficient documentation to establish medical necessity for a filling on tooth 2***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554056 did not establish medical necessity for the filling on tooth 2.<sup>155</sup> In the audit report, Program Integrity reasoned that there is no diagnostic information or patient history to support the medical need for the filling.<sup>156</sup>

The records here show that Dr. Bartley performed an exam and took x-rays of the subject patient on September 10, 2010.<sup>157</sup> At that time Dr. Bartley noted that he would perform a filling on tooth 2 at the patient's next visit.<sup>158</sup> On October 14, 2010, Dr. Bartley performed a filling on tooth 2.<sup>159</sup> Unfortunately, none of the records submitted document any disease process, complaint, or injury to tooth 2.<sup>160</sup> Dr. Bartley did not have a copy of the x-rays taken on September 10, 2010.<sup>161</sup> And the record does not contain a copy of any computerized tooth diagram created for the September 10, 2010 exam.<sup>162</sup> I conclude that this documentation is not sufficient to establish the medical necessity for the filling on tooth 2. Accordingly, the audit findings disallowing payment for failure to provide documentation of medical necessity for the filling to tooth 2 in Claim D554056 are affirmed.

***2. Insufficient documentation to establish extent of service for the filling on tooth 2***

Program Integrity claimed that the documentation provided by Dr. Bartley for Claim D554056 was insufficient to establish the extent of services for a filling on tooth 2.<sup>163</sup> More

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<sup>154</sup> At the hearing, Dr. Bartley disputed payment for the filling to tooth 2 of Claim D554056. After the hearing, Program Integrity submitted "Remittance Advices" showing that Claim D554056 was paid. Notice of Filing Remittance Advices, Attachment 5.

<sup>155</sup> Corrected List of Contested Overpayments at 3; *see also* AR 47.

<sup>156</sup> AR 47.

<sup>157</sup> Bartley Ex. A, Tab 16 (RA 000152).

<sup>158</sup> Bartley Ex. A, Tab 16 (RA 000152).

<sup>159</sup> AR 409; Bartley Ex. A, Tab 16 (RA 000152); Robertson Testimony.

<sup>160</sup> AR 409-410; Bartley Ex. A, Tab 16 (RA 000152, RA 000154).

<sup>161</sup> AR 409-410; Bartley Ex. A, Tab 16 (RA 000152, RA 000154).

<sup>162</sup> AR 480-482, 585-586.

<sup>163</sup> Corrected List of Contested Overpayments at 3; *see also* AR 47.

specifically, Program Integrity claimed that Dr. Bartley failed to document which surfaces the filling was performed.<sup>164</sup>

The patient's clinical notes document that Dr. Bartley used a composite filling on the GF (gingival, facial) surface of tooth 2.<sup>165</sup> Dr. Bartley charged for a two-surface composite filling.<sup>166</sup> At the hearing, Dr. Bartley conceded that the filling for tooth 2 should have been charged as a one-surface filling, rather than a two-surface filling.<sup>167</sup> I conclude that this is sufficient documentation of the extent of services (i.e. a one-surface filling on the facial surface of tooth 2). Accordingly, the audit findings disallowing any payment for failure to provide documentation of extent of services for the filling provided on tooth 2 in Claim D554056 are reversed. But because Dr. Bartley conceded that the filling should have been charged as a one-surface filling, a partial overpayment finding is affirmed. (Even so, the overpayment finding for the filling to tooth 2 is affirmed for the concurrent ground of failing to provide sufficient documentation of medical necessity, as discussed above.)

### ***3. Exceeding the annual service limit***

Under 7 AAC 110.145(b), Medicaid will pay up to the annual limit of \$1,150 from July 1 to June 30 of each fiscal year per recipient 21 years of age or older.<sup>168</sup> Program Integrity claims that the annual limit was exceeded by \$2.50.<sup>169</sup>

Dr. Bartley initially did not dispute that the claim exceeded the annual service limit.<sup>170</sup> But on the second day of hearing, Dr. Bartley disputed payment for the filling to tooth 2 of Claim D554056, and thus, argued that the patient did not exceed the annual service limit.<sup>171</sup> In support of that defense, Dr. Bartley presented an explanation of benefits (EOB), dated October 29, 2010, denying payment because the service requires prior authorization.<sup>172</sup> After the hearing, Program Integrity submitted a "Remittance Advice," dated November 2, 2010, showing that the filling for tooth 2 in Claim D554056 was in fact paid.<sup>173</sup> Because there is no

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<sup>164</sup> AR 47.

<sup>165</sup> AR 409; *see also* AR 356.

<sup>166</sup> AR 410; *see also* AR 356.

<sup>167</sup> Bartley Testimony.

<sup>168</sup> Robertson Testimony.

<sup>169</sup> Corrected List of Contested Overpayments at 3; *see also* AR 47. Robertson Testimony.

<sup>170</sup> Bartley Testimony.

<sup>171</sup> Bartley Testimony.

<sup>172</sup> Bartley Testimony; Supplemental Records submitted January 17, 2018.

<sup>173</sup> Notice of Filing Remittance Advices, Attachment 5.

real dispute that Claim D554056 exceeded the patient's annual service limit, the audit findings disallowing payment for \$2.50 over the service limit in Claim D554056 are affirmed.

#### **IV. Conclusion**

The overpayment findings with respect to the following are overturned: Fillings for teeth 7 and 8 in Claim D554013; Claim D550418; the filling and pulp cap for tooth 20 in Claim D554019; Claim D554024; the crown for teeth 19 and 21 in Claim D554031; Claim D554032; the sealant on tooth 14 for Claim D554040; Claim D554041; the fillings for teeth 12 and 13 in Claim D554044; and Claim 554050. Program Integrity shall recalculate the sample and extrapolation with these overpayments removed. Jurisdiction is not retained, and if there is a dispute about the recalculation methodology, Dr. Bartley may file a new appeal related to that limited issue.<sup>174</sup> In all other respects, the remaining contested overpayment findings are upheld.

Dated: April 2, 2018.

*Signed*

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Jessica Leeah

Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

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<sup>174</sup> Appeal rights on matters decided in this decision run from the date of its adoption.