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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

██████ ██████
██
██

DECISION

MPA/170771

PRELIMINARY RECITALS

Pursuant to a petition filed December 11, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability [“DCHAA”] in regard to Medical Assistance [“MA”], a Hearing was held from Madison, Wisconsin via telephone on January 26, 2016.

The issue for determination is whether it was correct for DHCAA to deny petitioner’s request for Prior Authorization [“PA”] for periodontal scaling and root planing.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

██████ ██████
██
██

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: ██████ ██████, DDS
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (46 years old) is a resident of Dane County, Wisconsin.
2. Petitioner's provider, [REDACTED], Wisconsin, requested PA (PA # [REDACTED]; dated October 29, 2015) for MA coverage for periodontal scaling and root planning for petitioner at a total cost of \$1,566.00.
3. On November 11, 2015 DHCAA denied PA # [REDACTED] and sent petitioner a letter entitled *BadgerCare Plus Notice of Appeal Rights* dated November 11, 2015 informing her of the denial.

DISCUSSION

Petitioner appeals because DHCAA denied PA for periodontal scaling and root planing. This is a denial of eligibility for services; it is not discontinuation of services. As with any eligibility denial, the burden is on petitioner to show that she is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to do so.

In determining whether to approve or disapprove a request for PA the limitations imposed by pertinent federal or state statutes, rules, regulations, or interpretations must be considered. Wis. Admin. Code § DHS 107.02(3)(e)9. (August 2015). Written state policy limitations provide that in order for PA to be approved for periodontal scaling and root planing the member must have more than 50 percent bony support intact for the teeth being treated. *ForwardHealth* Topic #15457 (Periodontal Services) – found online; Exhibit #2; See also, Wis. Admin. Code § DHS 107.07(2)(a)2.d. (August 2015).

The documentation in the record of this matter does not show that petitioner has more than 50 percent bony support intact for the teeth being treated. Exhibits #1 & #2. In fact, a letter dated December 9, 2015 from petitioner's dentist states that petitioner has "advanced bone loss at several of her molars" Therefore, the PA was properly denied.

CONCLUSIONS OF LAW

For the reasons discussed above, DHCAA was correct to deny petitioner's request for PA for periodontal scaling and root planing.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of February, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on February 23, 2016.

Division of Health Care Access and Accountability