



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/171570

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 20, 2016, 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 (DHCAA) in regard to Medical Assistance (MA), a telephonic hearing was held on February 23, 2016, at Milwaukee, Wisconsin. The record was held open for 2 weeks post-hearing to allow petitioner time to submit additional information, but nothing was received.

The issue for determination is whether the DHCAA correctly denied a prior authorization (PA) request for a lower partial denture.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

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

By: written submittal of [REDACTED]  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.

2. On December 29, 2015, petitioner's provider requested prior authorization (PA # [REDACTED]) for MA coverage of complete upper denture and a lower partial denture for petitioner.
3. On January 11, 2016 the DHCAA approved the upper denture but denied the PA for the lower denture because that requested service did not meet PA guidelines under the MA program.

### DISCUSSION

Dentures, or prosthodontics, can be a covered service for certain MA recipients, subject to prior authorization. Wis. Admin. Code §DHS 107.07(2)(a)3.b. For any prior authorization request to be approved, the requested service must satisfy the generic prior authorization criteria listed at Wis. Adm. Code §DHS 107.02(3)(e). Those criteria include the requirement that the service be medically necessary.

The MA Provider Handbook, Topic 2895, provides the approval criteria for partial dentures: “Wisconsin Medicaid reimburses for partial dentures *only* for members with good oral health and hygiene, good periodontal health (AAP Type I or II), and a favorable prognosis where continuous deterioration of teeth and periodontal health is not expected.” *Prior Authorization Guidelines Manual*, Topic #2895, available online at <https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=15&s=2&c=527&nt=Partial+Dentures>.

The DHCAA concluded that petitioner’s remaining teeth, on which the partial denture would be supported, are likely to deteriorate and that there was significant bone loss in the area. The DHCAA thus concluded that petitioner’s periodontal health was not sufficient to qualify her for the partial denture. Petitioner did not rebut that assertion. Unless there is professional evidence rebutting the DHCAA finding, I have no basis to overrule it. I thus must uphold the denial of the request for a partial denture.

If petitioner’s dentist is of the opinion that petitioner’s remaining teeth are sufficiently healthy to support a partial denture long-term, s/he can file a new prior authorization request with evidence supporting that position. At this point there is no such evidence, and I must conclude that the denial was correct.

I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division’s hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

### CONCLUSIONS OF LAW

The DHCAA correctly denied the instant prior authorization request because petitioner did not meet the criteria for approval.

**THEREFORE, it is**

**ORDERED**

That the petition herein be 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 Milwaukee,  
Wisconsin, this 13th day of April, 2016

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on April 13, 2016.

Division of Health Care Access and Accountability