



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/172334

PRELIMINARY RECITALS

Pursuant to a petition filed February 27, 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 in regard to Medical Assistance, a hearing was held on April 05, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner's appeal of the denial of a Maxillary (Upper) complete denture and Mandibular (Lower) complete denture is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [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:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. On October 22, 2015 the petitioner's provider submitted a medical prior authorization request for a Maxillary (Upper) complete denture and Mandibular (Lower) complete denture.

3. On November 4, 2015 the agency sent the petitioner a notice stating that her prior authorization request had been denied. Her request was denied because the Department concluded that they had approved another set of dentures less than five years before this prior authorization request.
4. On February 27, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing. In the petitioner's Request for Fair Hearing, she noted that although a previous set of dentures had been approved, those dentures had been returned, and her provider reimbursed Wisconsin MA for the dentures.
5. [REDACTED] submitted a March 1, 2016 letter agreeing with the petitioner. [REDACTED]'s letter stated, "in re-reviewing PA # [REDACTED] along with the clinical data the member submitted with her appeal request, Wisconsin Medicaid finds it can approve the requested set of complete dentures."

DISCUSSION

Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Stat. §49.45(5)(a); Wis. Adm. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. In this case the petitioner's appeal was filed after the 45 day time limit, and I am without jurisdiction to decide this case on the merits.

Although I am without jurisdiction, no issue remains because the Department has concluded that the prior authorization request should be approved. **The petitioner may take a copy of the Department's March 1, 2016 letter to her dental provider. That provider should then submit a new prior authorization request. Include a copy of the letter with the prior authorization request. The dentures will then be approved for the petitioner.**

CONCLUSIONS OF LAW

The petitioner's appeal is not timely.

THEREFORE, it is

ORDERED

That the petition is 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.

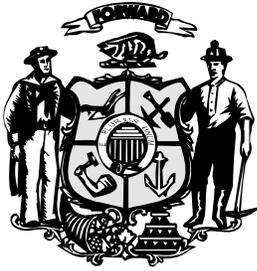
APPEAL TO COURT

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 11th day of April, 2016

\sCorinne Balter
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 11, 2016.

Division of Health Care Access and Accountability