



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MPA/146022

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 15, 2012, 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 telephonic hearing was held on January 30, 2013, at Manitowoc, Wisconsin. At the request of petitioner, the record was held open until February 14, 2013 for the submission to the Division of Hearings and Appeals (DHA) of a letter from her new dentist to establish petitioner's medical extenuating circumstances. However, no such dentist letter has been received at DHA by February 14, 2013 or even by the date of this decision.

The issue for determination is whether the Department correctly denied the petitioner's prior authorization (PA) request for complete upper dentures.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Robert Dwyer, DDS, dental consultant  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. The petitioner's dental provider, [REDACTED], submitted an October 18, 2012 prior authorization (PA) request on behalf of the petitioner for lower and upper complete dentures. See Exhibit 2.
3. The petitioner alleged without documentation that the PA request for her lower complete lower dentures had already been approved by the MA program.
4. The Division of Health Care Access and Accountability (DHCAA) sent a November 23, 2012 letter to the petitioner denying her request for upper complete dentures because those dentures are usually allowed only once every five years unless extenuating medical circumstances are present and documented by the provider or physician.
5. While the record was held open, petitioner failed to submit to DHA any evidence of extenuating circumstances that supported the medical need for upper complete dentures earlier than the normal five year replacement period. See above Preliminary Recitals.

### DISCUSSION

The DHS may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the DHCAA in advance of receiving the service. Finally, some services and equipment are never covered by the MA program.

The MA Prior Authorization Guidelines for determining whether payment for partial dentures will be provided states in pertinent part as follows at page 124.011.06:

Denial Criteria:

1. The recipient's history indicates an upper or lower denture was approved and fabricated within the past five (5) years, and no mitigating circumstances were supplied by the provider warranting the construction of a new denture.

During the January 30, 2013 hearing, petitioner explained that she has suffered two strokes and bone cancer. She testified that her lower teeth needed to be pulled so new upper dentures were needed because her current dentures no longer fit properly against her new lower dentures. The record was held open for the petitioner's new dentist to submit medical evidence establishing her new "extenuating" medical circumstances, and thus the medical need for approval of new upper complete dentures. Unfortunately, neither the petitioner nor her new dentist has submitted any letter or documentation to DHA by February 14, 2013 or even by the date of this decision. As a result, the petitioner has not established any "extenuating circumstances" for approval of her PA request for upper complete dentures earlier than the normal five year replacement period. Accordingly, based upon the hearing record, I must conclude that Department correctly denied the petitioner's prior authorization (PA) request for complete upper dentures because the petitioner did not establish with any reliable evidence any extenuating circumstances.

As dicta, if the petitioner obtains the new medical evidence from her dentist, her provider should promptly submit a new PA to the DHCAA for complete upper dentures for the petitioner.

**CONCLUSIONS OF LAW**

The Department correctly denied the petitioner's prior authorization (PA) request for complete upper dentures because the petitioner did not establish with any reliable evidence any extenuating circumstances.

**THEREFORE, it is ORDERED**

The petition for review herein be and the same is hereby Dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 4th day of March, 2013

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\sGary M. Wolkstein  
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 March 4, 2013.

Division of Health Care Access And Accountability