

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County. Petitioner is certified as eligible for MA.
2. On April 7, 2014 Dr. [REDACTED] office performed a dental cleaning on Petitioner's teeth. The notes from that visit state that Petitioner needs "gross debridement" at her next visit. The notes from April 17, 2014 also state that Petitioner needs "gross debridement."
3. The Department never received a claim or authorization request for gross debridement. The Department only received a claim for the Petitioner's teeth cleaning, which was covered.

DISCUSSION

Petitioner's healthcare records show that on April 7, 2014 Dr. [REDACTED] office performed a dental cleaning on Petitioner's teeth. The notes from that visit and from April 17, 2014 state that Petitioner needs "gross debridement." Petitioner does not believe that her teeth were properly cleaned. Petitioner testified that she had another visit scheduled for the dental office to scrap some of her teeth as they did not complete the scrapping portion of her teeth cleaning. Teeth cleaning should include scrapping. However, the Department and United Healthcare testified that the dental records indicated that a teeth cleaning, which includes scrapping was performed. United Healthcare stated that gross debridement is also a covered service. At this point there has been no denial for Petitioner to appeal. The cleaning service was approved and if the proper approval procedure is followed for a gross debridement, that service will most likely be approved.

An administrative law judge (ALJ) can only hear cases on the merits if there is jurisdiction to do so. An ALJ from the Division of Hearings and Appeals has jurisdiction to hear cases application when a person's "medical assistance is denied or is not acted upon promptly or who believes that the payments made in the person's behalf have not been properly determined or that his or her eligibility has not been properly determined." Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03. In other words there must be some negative action for Petitioner to appeal. *Id.*

In this case there is no negative action. Petitioner does not believe her teeth were properly cleaned. The Division of Hearings and Appeals does not have jurisdiction to determine whether a teeth cleaning was performed correctly. If Petitioner needs gross debridement, then the provider should follow the proper Medicaid procedures as gross debridement is a covered Medicaid service. If the HMO denies the request for gross debridement, then the Division of Hearings and Appeals could have jurisdiction to decide that issue.

CONCLUSIONS OF LAW

There is no negative action, and therefore the Division of Hearings and Appeals does not have jurisdiction.

THEREFORE, it is

ORDERED

That the Petition is 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, Room 651, 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 Milwaukee,
Wisconsin, this 25th day of August, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 25, 2014.

Division of Health Care Access and Accountability