



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Redact

REHEARING DECISION

MPA/160181

PRELIMINARY RECITALS

Pursuant to a petition filed August 27, 2014, 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 scheduled for October 14, 2014. Petitioner failed to appear for that October 14th Hearing. Accordingly, a Decision dated October 15, 2014 was issued dismissing petitioner's petition as abandoned.

On November 14, 2014 the Division of Hearings and Appeals ["DHA"] received, via US Mail postmarked November 12, 2014, a letter from petitioner dated November 7, 2014 requesting a rehearing. By a Rehearing Request Order dated November 18, 2014 petitioner's request for a rehearing was granted. A rehearing was scheduled for December 9, 2014. At petitioner's request the December 9th rehearing was rescheduled. A rehearing was held via telephone on January 7, 2015.

The issue for determination is whether it was correct for DHCAA to deny Prior Authorization ["PA"] for mandibular (lower) dentures for petitioner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact, 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:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [Redact]; 65 years old) is a resident of Winnebago County, Wisconsin.
2. In October 2012 petitioner received approval for a both complete maxillary (upper) dentures and complete mandibular (lower) dentures (PA # [Redact]) paid for by MA.
3. Petitioner claims her mandibular (lower) dentures do not fit properly; for this reason she left her mandibular (lower) dentures with her dentist.
4. Petitioner's provide, [Redact] of Wautoma, Wisconsin requested PA (PA # [Redact]; dated July 1, 2014) for MA coverage of mandibular (lower) dentures for petitioner at a total cost of \$3,274.00.
5. DHCAA denied the mandibular (lower) dentures requested in PA # [Redact] [but approved a request for maxillary (upper) dentures for petitioner]; DHCAA sent a letter to petitioner dated July 14, 2014 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of this.

DISCUSSION

Dentures require PA. Wis. Admin. Code § 107.07(2)(a)3. (February 2014). By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code § DHS 107.01(1) (February 2014); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). Petitioner appeals because DHCAA denied PA for the requested mandibular (lower) dentures. 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.

Dentures can be approved for MA payment only 1 time every 5 years. This limitation may be exceeded only in exceptional circumstances if written justification is provided with the PA request. *ForwardHealth* Topic #2818. In this case no written justification was provided by petitioner's provider with the PA request. Therefore, DHCAA was correct to deny PA for mandibular (lower) dentures for petitioner.

CONCLUSIONS OF LAW

For the reasons discussed above, DHCAA was correct to deny PA for mandibular (lower) dentures for petitioner.

NOW, THEREFORE, it is

ORDERED

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

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 9th day of February, 2015

\sSean P. Maloney
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 February 9, 2015.

Division of Health Care Access and Accountability