



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/165482

PRELIMINARY RECITALS

Pursuant to a petition filed April 14, 2015, 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 May 07, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether a prior authorization request for lower partial dentures for Petitioner was correctly denied.

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

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.

2. On or about September 23, 2014 Petitioner's provider, [REDACTED] filed a prior authorization request seeking Medicaid payment for upper and lower partial dentures for Petitioner. The cost was noted to be \$1490.00.
3. This request was partially approved by the Department – the upper was approved as requested – but with the provision of the upper Petitioner will have at least 2 posterior teeth bilaterally that can be used for chewing and fewer than 6 missing lower teeth, thus the lower was denied. See Exhibit #3, page 2.
4. Petitioner has the following teeth missing in the lower arch - #s 17, 18, 19 (lower left molars) and 30 (lower right molar).

DISCUSSION

The Division of Health Care Financing can make regulations concerning dental procedures. *Wis. Admin. Code § DHS 107.02(3)(e)*. It has used this authority to deny partial dentures under the following circumstances: "If two (2) or more posterior teeth are present per quadrant and in occlusion with the opposing quadrant and no anterior teeth are missing, and the recipient has fewer than six missing teeth per the arch in question." *Prior Authorization Guidelines Manual, § 124.011.06*. The approval criteria include the following:

Topic #2895

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.

A member qualifies for a partial denture if any of the following criteria are met:

- One or more anterior teeth are missing.
- The member has less than two posterior teeth per quadrant in occlusion with the opposing quadrant.
- The member has at least six missing teeth per arch, including third molars.
- A combination of one or more anterior teeth are missing, and the member has less than two posterior teeth per quadrant in occlusion with the opposing quadrant.
- The member requires replacement of anterior teeth for employment reasons.
- Medically necessary for nutritional reasons documented by a physician.
- Unusual clinical situations where a partial is determined to be necessary based on a comprehensive review of the dental and medical histories.

If placement of a partial denture in an arch provides at least two posterior teeth (posterior teeth are bicuspid and molars only) per quadrant in occlusion with the opposing quadrant, the opposing partial, if requested, may not be authorized unless the member also has an anterior tooth missing in that arch.

See online provider handbook, Topic # 2895; <https://www.forwardhealth.wi.gov>.

The Department did conclude that it could not authorize the lower dentures as once Petitioner's upper denture was approved Petitioner does not meet the above criteria. There is no evidence that suggest that this decision by the Department is incorrect.

The Division of Hearings and Appeals that the Division cannot ignore these criteria. *See, e.g., Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977)*. The Division of Hearings and Appeals must limit its review to the regulatory framework set forth in statutes, federal regulations, administrative code provisions and Department policy.

NOTE: Petitioner's provider will not receive a copy of this Decision; Petitioner may provide a copy of this Decision to the provider.

CONCLUSIONS OF LAW

That the evidence does not demonstrate the approval criteria for lower partial dentures is met.

THEREFORE, it is

ORDERED

That this appeal 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 7th day of July, 2015

\sDavid D. Fleming
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 July 7, 2015.

Division of Health Care Access and Accountability