



FH

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/169141

PRELIMINARY RECITALS

Pursuant to a petition filed October 3, 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 ["DHCAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 17, 2015.

The issue for determination is whether it was correct for DHCAA to deny MA Prior Authorization ["PA"] for a lower partial denture for petitioner.

There appeared at that time via telephone 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: [REDACTED], DDS, Dental Consultant [Dr. [REDACTED] did not appear at the November 17, 2015 Hearing but submitted a letter dated October 12, 2015 with attachments.]

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 (61 years old) is a resident of Vernon County, Wisconsin.
2. On September 21, 2015 petitioner's provider, [REDACTED] of [REDACTED] located in Cashton, Wisconsin requested PA (P.A. # [REDACTED]; dated September 8, 2015) for MA coverage for a lower partial denture for petitioner at a total cost of \$997.00.
3. DHCAA denied PA # [REDACTED]; DHCAA sent a letter to petitioner dated September 21, 2015 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of this denial.
4. Following an examination of petitioner's dental records the DCHAA Dental Consultant (a dentist) denied the PA request due to poor prognosis based on petitioner's current periodontal health; he concluded that petitioner's periodontal health was not sufficient to qualify her for a lower partial. Exhibit #1.

DISCUSSION

Petitioner appeals because DHCAA denied PA for the requested lower partial denture. Partial dentures require PA. Wis. Admin. Code § 107.07(2)(a)3.b. (August 2015); ForwardHealth Topic #2896 (Prior Authorization Requirements) – found online.

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.

MA reimburses for partial dentures *only* for members with good oral health and hygiene, good periodontal health (American Academy of Pediatrics [“AAP”] Type I or II), and a favorable prognosis where continuous deterioration of teeth and periodontal health is not expected. ForwardHealth Topic #2895 (Partial Dentures) – found online.

In this case, as noted in the above *Findings of Fact*, following an examination of petitioner's dental records the DCHAA Dental Consultant (a dentist) denied the PA request due to poor prognosis based on petitioner's current periodontal health. He concluded that petitioner's periodontal health was not sufficient to qualify her for a lower partial. Petitioner states that her teeth are stable at this point. She testified that she takes “really good” care of her teeth, flosses and brushes daily, and avoids sweets. However, she offered no documentation which casts doubt on the DCHAA Dental Consultant's conclusion. She did offer some documentation from her doctor and dentist -- but that documentation does not speak to her current periodontal health. See, Exhibits #3 & #4. Further, it is noted that she testified that she does have periodontal disease (but has no bleeding in her gums at this point and is maintaining depth of tissue). Based on the evidence in the record of this matter, the PA for the lower partial denture was properly denied.

CONCLUSIONS OF LAW

For the reasons discussed above, DHCAA was correct deny PA for a lower denture for petitioner.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 Madison,
Wisconsin, this 19th day of November, 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 November 19, 2015.

Division of Health Care Access and Accountability