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

In the Matter of

[REDACTED]

DECISION

Case #: MPA - 174575

PRELIMINARY RECITALS

On May 20, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA). The hearing was held on July 15, 2016, by telephone. A hearing scheduled for June 6, 2016, was rescheduled at the petitioner's request.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a partial denture.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

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Respondent:

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

By: [REDACTED]

Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Barron County.

2. The petitioner with Family Health of Marshfield requested a lower partial denture on March 25, 2016. The department denied the request on April 6, 2016.
3. The petitioner is missing all of her upper teeth and her four anterior lower teeth. She is not missing any lower molars except her wisdom teeth.
4. The pocket depths on the petitioner's remaining lower teeth are all five or above and most of those teeth are loose. She has significant bone loss on that jaw

DISCUSSION

Medical assistance requires prior authorization before a person can receive a partial denture. Wis. Admin. Code § DHS 107.07(2)(a)3.b. The petitioner seeks lower partial dentures, which the department denied. The online *Medicaid Handbook*, Topic 2829, allows partial dentures for those who are missing one or more anterior teeth, but it also indicates that the recipient must have "good oral health and hygiene, good periodontal health,...and a favorable prognosis where continuous deterioration of teeth and periodontal health is not expected."

The petitioner is missing her four lower front teeth. Other than her wisdom teeth, she still has all of her molars on her lower jaw. She is missing all of her upper teeth. The department points out that she has significant bone loss on her jaw and poor periodontal health as shown by pocket depths of least five on her remaining lower teeth. Its reviewer believes that these problems will prevent her dentures from lasting more than five years. She points out that she had dentures that lasted 19 years until they were damaged when her jaw got broken in an "accident" in 2012.

The petitioner must prove by the preponderance of the credible evidence that the denture will adequately treat her problem. It is difficult for an administrative law judge to independently verify the level of her bone loss, but the deep pockets on all of her remaining lower teeth are objective proof of gum disease. This disease is corroborated by her testimony that most of her remaining teeth are loose. And while the length of time a previous denture lasted is relevant, it is not particularly persuasive in her case because she got that denture when she was in her mid to late 30s and she is now almost 60. Based upon this, I find that she has not met her burden of proof and uphold the denial.

CONCLUSIONS OF LAW

The department correctly denied the petitioner's request for a lower partial denture because she has not shown that it is cost effective.

THEREFORE, it is

ORDERED

The petitioner's 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, **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 21st day of July, 2016

\s _____
Michael D. O'Brien
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 July 21, 2016.

Division of Health Care Access and Accountability