



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 174684

PRELIMINARY RECITALS

On May 25, 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 (DHCAA or Division) regarding Medical Assistance (MA). The hearing was held on June 22, 2016, by telephone. The hearing record was held open for 10 days for a submission from the petitioner's dentist, which was received.

The issue for determination is whether the Division correctly denied a prior authorization request for upper and lower partial dentures.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

(no advocate)

Respondent:

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

By written submission of [REDACTED], DDS
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. He is certified for MA.
2. On April 18, 2016, a prior authorization request was submitted on the petitioner's behalf for a set of maxillary (upper) and mandibular (lower) partial dentures. The Division issued written notice of denial on May 3, 2016.
3. The Division's basis for denial was that the petitioner's oral health prognosis was too poor to justify provision of partial dentures. Specifically, it was noted that his periodontal health was poor as evidenced by gum pocket depths of 5 or 6mm on upper teeth #6, #7, #8, #13, and #14. On the remaining lower teeth, gum pocket depths were at an unsatisfactory 5mm level on all remaining teeth. The dental provider did *not* indicate on the authorization request that the petitioner's periodontal health is in the AAP I or II category. Full dentures are available when appropriate through the MA program.
4. In the upper arch, the petitioner is already missing teeth #1 (wisdom tooth), #2, #3, #4, #5, #8, #9, #12 and #15. Post-hearing, updated periodontal charting was submitted from the petitioner's dentist. Although the depths had improved, the petitioner continued to show pocket depths of 5mm on teeth #13 and #14. Thus, he continues to clearly not be appropriate for the upper *partial* denture.
5. In the lower arch, the petitioner is missing teeth #17 (wisdom tooth), #18, #20, #30, #31, and #32 (wisdom tooth). All non-restorable teeth have been extracted. Depths have improved to 3-4mm on #21, #22, #23, #24, #25, #28 and #29, but are still at 5mm or worse on #18, #26, and #27.
6. Due to missing teeth, the petitioner is currently eating soft food, and complains of losing weight.

DISCUSSION

A partial denture can be a covered service for an MA recipient, subject to prior authorization. Wis. Stat. s.49.46(2)(b)1im. For any prior authorization request to be approved, the requested service must satisfy the generic prior authorization criteria listed at §DHS 107.02(3)(e). Those criteria include the requirement that the service be medically necessary and appropriate. *Id.*, 1, 2.

A partial denture is a prosthetic device, which replaces some missing teeth in an arch and is held in place by remaining natural teeth. An arch is half of the mouth, either the upper (maxillary) arch or lower (mandibular) arch.

The prior authorization request submitted by the dentist to the Division shows that the petitioner has lost nine teeth in his upper arch. He also is missing six lower teeth.

The Department has developed a policy document, the *Medicaid Providers Online Handbook*, to provide more uniform guidance as to when a requested dental procedure is medically necessary and appropriate. Application of the policy, shown below, resulted in the determination that the request was not appropriate at this time:

Topic 32895

Partial Dentures

Wisconsin *Medicaid reimburses for partial dentures only for members with good oral health and hygiene, good periodontal health* (AAP [American Academy of Periodontology] 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:

- ...
- The member has at least six missing teeth per arch, including third molars.

...

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.

There is no dispute that the petitioner *is* missing six or more teeth in his upper and lower arches. However, the Division asserts that he does not have a favorable prognosis for long-term use of partial dentures due to poor periodontal health. Even with updated periodontal charting from June 2016, the petitioner has pockets of 5mm or greater on two upper teeth and three lower teeth. His provider has not indicated that his status is upgraded to AAP I or II, as required by the policy. This is not surprising, given that AAP II involves pocket depth at 3-4 mm. AAP III, which is unacceptable, encompasses pocket depth of 4-6 mm. See, <https://loveperio.com/2012/08/31/ada-classification/> . That is the range in which the petitioner finds himself for some teeth. The Division has acted consistently with its policy, which is not unreasonable. Thus, the denial of the partial denture request is upheld. The petitioner may wish to speak with his provider about the possibility of a complete upper and/or lower denture.

CONCLUSIONS OF LAW

1. The Division correctly denied the instant prior authorization request for an upper and lower partial denture because the dentures were not medically appropriate, given the current state of the petitioner's periodontal health.

THEREFORE, it is

ORDERED

That the petition 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.

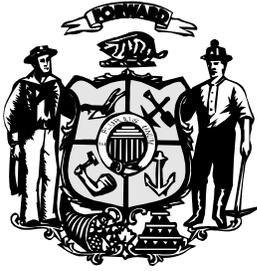
APPEAL TO COURT

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 18th day of July, 2016

\s _____
Nancy J. Gagnon
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 18, 2016.

Division of Health Care Access and Accountability