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**STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
OFFICE OF HEARINGS AND APPEALS**

In the Matter of)
)
 [REDACTED],) OHA Case No. 12-FH-2030
)
 Claimant.) Div. Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) is a Medicaid recipient. On January 6, 2012, the Claimant's dentist requested that the Medicaid program preauthorize her to receive a mandibular partial denture. (Ex. E, p. 1) The Division of Health Care Services (Division) denied the Claimant's request on January 24, 2012. (Ex. D) The Claimant requested a fair hearing on February 8, 2012. (Ex. C)

This office has jurisdiction pursuant to 7 AAC 49.010.

The Claimant's hearing was held on April 5, 2012. The Claimant appeared in-person. She represented herself and testified on her own behalf. [REDACTED], a Program Coordinator employed with the Division, appeared in person. She represented the Division. [REDACTED], a Medical Assistance Administrator employed with the Division, attended in-person and testified for the Division.

ISSUE

Was the Division correct to deny the Claimant's January 6, 2012 request that the Medicaid program preauthorize her to receive a mandibular partial denture?

FINDINGS OF FACT

The following facts were established by a preponderance of the evidence:

1. The Claimant is a Medicaid recipient. On July 24, 2009, her dentist requested that the Medicaid program pay for her to receive a mandibular (lower) partial denture.

(██████████ testimony; Exs. F, p. 1, G, p. 3) The Medicaid program approved the Claimant's receipt of the mandibular partial denture on July 24, 2009 and paid for it on November 24, 2009. (██████████ testimony; Ex. F, p. 1)

2. The Claimant's dentist requested that she receive a mandibular partial denture on March 31, 2011. (██████████ testimony; Exs. G1 – G2) The Medicaid program approved the Claimant's receipt of the mandibular partial denture on March 31, 2011 and paid for it on May 20, 2011. *Id.* This was a replacement of the mandibular partial denture she received in 2009. (Claimant testimony)

3. The mandibular partial denture that the Claimant received in 2011 was uncomfortable. (Claimant testimony) She kept taking it back to the dentist for adjustment but did not ask for a replacement. *Id.* Because the mandibular partial denture was uncomfortable, she would take it out of her mouth. In December 2011, she took the mandibular partial denture out and put it in her pocket. *Id.* It fell out of her pocket and she lost it. *Id.*

4. On January 6, 2012, the Claimant's dentist requested that the Medicaid program preauthorize her to receive a new mandibular partial denture because she had "lost her lower partial and is unable to chew food without it." (Ex. E)

5. The Division denied the Claimant's request for a new mandibular partial denture. (Exs. D, E) The reason the Division provided for denying the request was that the Medicaid program would "pay for replacement of complete or partial dentures only once per five calendar years. 7 AAC 110.145(B)(6)." (Ex. D)

PRINCIPLES OF LAW

A party who is seeking a change in the status quo has the burden of proof. *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985). The normal standard of proof in an administrative proceeding, unless otherwise stated, is the preponderance of the evidence standard. *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986). "Where one has the burden of proving asserted facts by a preponderance of the evidence, he must induce a belief in the minds of the [triers of fact] that the asserted facts are probably true." *Robinson v. Municipality of Anchorage*, 69 P.3d 489, 495 (Alaska 2003).

The Medicaid program will pay up to \$1,150 per fiscal year for a Medicaid recipient to receive "complete or partial dentures and denture repair or reline." 7 AAC 110.145 and 145(b)(6). However, the Medicaid program "will pay for replacement of complete or partial dentures only once per five calendar years." 7 AAC 110.145(b)(6).

ANALYSIS

The issue in this case is whether the Division was correct to deny the Claimant's January 6, 2012 request that the Medicaid program preauthorize her to receive a mandibular

partial denture. The Claimant has the burden of proof by a preponderance of the evidence because her request for a mandibular partial denture was a request to change the status quo. *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985); *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986).

There are no disputed facts in this case. The Claimant received a mandibular partial denture, which was paid for by the Medicaid, in 2009. She then received a replacement mandibular partial denture, also paid for by Medicaid, in the spring of 2011. That mandibular partial denture was uncomfortable, and she would take it out of her mouth. She lost the mandibular partial denture in December 2011.

The Claimant's dentist, acting on her behalf, requested a replacement mandibular partial denture on January 6, 2012. The Division denied the Claimant's request for a replacement mandibular partial denture because the Medicaid program would "pay for replacement of complete or partial dentures only once per five calendar years. 7 AAC 110.145(B)(6)." (Ex. D)

Resolution of this case is governed by Alaska Medicaid regulation 7 AAC 110.145(B)(6). That regulation clearly states that the Medicaid program will only pay for denture replacement, whether it be a complete denture or a partial denture, once every five calendar years. Because the Claimant's request for a replacement mandibular partial denture, which was made in January 2012, was within the five year period after she had last received her mandibular partial denture, the Claimant was not entitled to receive a replacement mandibular partial denture. The Division was therefore correct when it denied the Claimant's January 6, 2012 request for a replacement mandibular partial denture.

CONCLUSIONS OF LAW

1. Alaska Medicaid regulation 7 AAC 110.145(b)(6) did not allow the Medicaid program to pay for a replacement mandibular partial denture for the Claimant, as of January 6, 2012, because she had received a mandibular partial denture paid for by the Medicaid program within the previous five calendar years.
2. The Division was therefore correct when it denied the Claimant's January 6, 2012 request that the Medicaid program preauthorize her to receive a mandibular partial denture.

DECISION

The Division was correct when it denied the Claimant's January 6, 2012 prior authorization request for a mandibular partial denture on January 24, 2012.

