



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MPA/143335

PRELIMINARY RECITALS

Pursuant to a petition filed August 22, 2012, 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 (Division or DHCAA) in regard to Medical Assistance (MA), a hearing was held on September 24, 2012, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for root canal therapy.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County. She is certified for MA.

2. In July 2012, a prior authorization request (#...103) was submitted for endodontic treatment of petitioner's tooth #2, an upper molar. The Division issued written notice of denial of that request on July 18, 2012.
3. The Division's basis for denial was not appropriate for the petitioner. Specifically, the Division was concerned that the petitioner had a history of, and currently has, substantial dental decay.
4. The petitioner, age 42, is missing teeth #1, #5, #12, #13, #17, #21, #28, and #32. Teeth #1, #17, and #32 are "wisdom teeth." *Decay is present in teeth #2, #6, and #14* (#14 is the "pillar" for a bridge over missing #13). The petitioner has also had a root canal treatment performed on tooth #11. In the opinion of the Division's consulting dentist, the petitioner has too much decay in her current teeth to make root canal therapy appropriate. There are no medical contra-indications to dental extraction for the petitioner.

DISCUSSION

Root canal therapy can be a covered service for certain MA recipients, subject to prior authorization. Wis. Admin. Code §DHS 107.07(2)(c)6. 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 appropriate. *Id.*, 2.

Root canal therapy is an endodontic service which removes infected pulpal tissue from the tooth and places a sealing filling inside the tooth, thus preventing the loss of the tooth by extraction. The alternative to root canal therapy is extraction. Extraction is a covered service under the MA program, without prior authorization.

Per Wis. Admin. Code § DHS 107.07(3)(a), the Division is allowed to impose "reasonable limitations" on reimbursement of covered services. Division policy lists denial criteria, which include "history of rampant decay" and "multiple past extractions (5 or more)." *Prior Authorization Guidelines Manual* 124.004.04 (1/29/08). The Division's consulting dentist concluded that the petitioner has rampant decay, given that decay is present in #2, #6, and #14. It has also been present in the past in at least #11 and #13. Finally, I was unable to locate any further legal or policy authority at 42 C.F.R. 440.100 or www.cms.gov/home/regsguidance.asp.

The petitioner testified that teeth #5, #12, #21, and #28 were extracted for a reason other than decay. Specifically, as a teenager she received orthodontia in Lima, Peru. She testified that a dentist extracted all four of these teeth to relieve crowding. Assuming that this explanation is true, the petitioner still has substantial current decay. Therefore, I conclude that the denial of this request was appropriate. Extraction remains an option for this tooth.

CONCLUSIONS OF LAW

The Division correctly denied the instant prior authorization request for root canal therapy, due to lack of appropriateness.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 25th day of September, 2012

Nancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access And Accountability - email
Department of Health Services - email



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The preceding decision was sent to the following parties on September 25, 2012.

Division of Health Care Access And Accountability