



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]

DECISION

MPA/143340

---

**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 in regard to Medical Assistance, a hearing was held on September 19, 2012, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a root canal.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Dr. Robert Dwyer

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

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. On July 12, 2012, the petitioner with Dr. Keith Napolitano requested a root canal for tooth #15, a molar. The Division of Health Care Access and Accountability denied the request on July 18,

2012, contending that the tooth cannot be restored, the petitioner has a history of rampant decay, and that there is poor prognosis for success.

3. There is no objective evidence of the extent of the decay of the petitioner's teeth or the prognosis is that the procedure would be successful.

### DISCUSSION

The petitioner appeals the denial of her prior authorization request for a root canal on tooth 18, a molar. A root canal removes infected pulpal tissue from the tooth and replaces it with a filling to prevent the loss of the tooth. Root canals are reimbursed if they meet the criteria found in the *Prior Authorizations Guidelines Manual*, § 124.009. The Division must deny these requests if "one or more of the Denial Criteria are met." *Prior Authorizations Guidelines Manual*, § 124.009.04. The Division determined that the petitioner's tooth met the following denial criterion found at *Prior Authorizations Guidelines Manual*, § 124.009.04:

- 1 The x-rays indicate the tooth is non-restorable, as determined by the Dental Consultant;...
- 4 The recipient has poor oral hygiene, or a history of rampant decay;...
- 5 Poor prognosis of successful root canal therapy (e.g. fractured root, dilacerated roots, chronic abscess, etc.).

There is no way for me to objectively determine whether the petitioner's request should be granted. The Division's explanation for denying was as follows:

In this case, the Dental Consultant determined that tooth #15 has questionable long-term prognosis due to the member's decay history. The Bite-wing x-rays show that there is extensive decay on this upper second molar. Multiple other teeth with extensive decay per 5/15/12 full mouth series x-rays. (Bite-wing x-rays are of the crown portion of the back teeth only. Full mouth series or complete series x-rays are of all the teeth.) This indicates a poor prognosis for a successful root canal therapy.

These are all subjective statements that I cannot verify because the file sent to me contains no x-rays or even diagrams. Although I am not a dentist, I can look at a photocopy of an x-ray and determine how many teeth have been filled and, with proper guidance, how decayed a particular tooth is. The dental consultant's statement, with its references to "extensive decay" and "Multiple other teeth," does not indicate exactly how extensive the decay is or how many teeth it affects. Without better and more specific evidence of the decay, I cannot conduct a meaningful review of the denial. But the Prior Authorization Request is no better. It contains no explanation of why the dentist believes the tooth can be restored or what the petitioner's oral hygiene habits are. The petitioner must prove by the preponderance of the credible evidence that the root canal is medically necessary. When neither party presents any objective evidence, I must uphold the Division's decision.

I note that the petitioner can submit a new request for a root canal if the procedure has not already been performed and if the tooth is still restorable. If she does, I suggest that she show her dentist this decision.

### CONCLUSIONS OF LAW

The Division of Health Care Access and Accountability correctly denied the petitioner's request for a root canal because she did not show by the greater weight of the credible evidence that the procedure is medically necessary.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal 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 served and 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, 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 31st day of October, 2012

---

Michael D. O'Brien  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 31, 2012.

Division of Health Care Access And Accountability