



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of



DECISION

HMO/143768

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 12, 2012, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on November 08, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's request for dental services, specifically a root canal.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Lucy Miller, Nurse Consultant  
Division of Health Care Access And Accountability  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner submitted a request to the agency for dental services, specifically for a root canal to be performed on tooth #18.
3. On September 7, 2012, the agency issued a denial based on its assessment that less than 50% of the tooth structure remained.

4. On September 12, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

Under the discretion allowed by Wis. Stat., §49.45(9), the Department of Health Services (DHS) now requires MA recipients to participate in HMOs. Wis. Adm. Code, §DHS 104.05(2)(a). MA recipients enrolled in HMOs must receive medical services from the HMOs' providers, except for referrals or emergencies. §DHS 104.05(3).

The criteria for approval by a managed care program contracted with the DHS are the same as the general MA criteria. See Wis. Adm. Code, §DHS 104.05(3), which states that HMO enrollees shall obtain services "paid for by MA" from the HMO's providers. The DHS must contract with the HMO concerning the specifics of the plan and coverage. Wis. Adm. Code, §DHS 104.05(1). If the enrollee disagrees with any aspect of service delivery provided or arranged by the HMO, the recipient may file a grievance with the DHS or appeal to the Division of Hearings and Appeals. Just as with regular MA, when the DHS denies a grievance from an HMO recipient, the recipient can appeal the DHS's denial within 45 days. Wis. Stat., §49.45(5), Wis. Adm. Code, §DHS 104.01(5)(a)3. In this case, the Petitioner did not file a grievance but filed an appeal with Division of Hearings and Appeals.

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 insides 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.

The Division has developed written policy to assist in the determination of when root canal treatment is an appropriate service. The denial standards for root canal treatment include the following provisions:

Denial Criteria:

1. The x-rays indicate the tooth is non-restorable, as determined by the Dental Consultant;
2. The x-ray indicates that more than 50% of the natural clinical crown has been destroyed by decay as determined by the Dental Consultant;
- ...
4. The recipient has poor oral hygiene, or a history of rampant decay;
- ...

Wisconsin Prior Authorization Guidelines Manual, p. 124.004.04.

The Division's documentation indicates that based on the x-rays provided with the Petitioner's request, it meets the denial criteria because the tooth is non-restorable and more than 50% of the natural crown has been destroyed. The Petitioner produced a statement from his dental provider post-hearing. That statement indicated that the Petitioner has "irreversible pulpitis." The provider further notes that the Petitioner would like to save the tooth rather than extract it and the provider states the tooth is clinically saveable.

The “irreversible pulpitis” condition was not mentioned in any documentation presented at the time of the hearing. It is my understanding that this is a condition where the pulp around a tooth is irreversibly damaged.

“The pulp cannot recover from the insult and damage. For example, decay that has reached the pulp of the tooth introduces bacteria into the pulp. The pulp is still alive, but the introduction of bacteria into the pulp will not allow the pulp to heal and it will ultimately result in necrosis, or death, of the pulp tissue. . . The pulp of a tooth with irreversible pulpitis may not be left alone to heal. The tooth may be endodontically treated whereby the pulp is removed and replaced by gutta percha. An alternative is extraction of the tooth. This may be required if there is insufficient coronal tissue remaining for restoration once the root canal therapy has been completed .”

Torabinejad, M. Walton, RE. Endodontics: Principles and Practice. 4th Edition. Elsevier Health Sciences, March 2008.

Based on the Division’s assessment of the x-rays as well as the provider’s statement that the tooth has irreversible pulpitis, I conclude that the Division has demonstrated that this meets the denial criteria. I certainly understand the Petitioner’s desire to save the tooth. However, given the condition of the tooth, I must affirm the Division’s determination.

**CONCLUSIONS OF LAW**

The agency properly denied the Petitioner’s request for a root canal for tooth #18.

**THEREFORE, it is ORDERED**

That the petition be, and hereby 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 Milwaukee,  
Wisconsin, this 17th day of December, 2012

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\sDebra Bursinger  
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 December 17, 2012.

Division of Health Care Access And Accountability