FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION

MPA/144412

PRELIMINARY RECITALS

Pursuant to a petition filed October 11, 2012, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for orthodontia, a hearing was held on November 16, 2012, by telephone.

The issue for determination is whether petitioner meets the criteria for orthodontia.

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Written submission of Robert Dwyer, DDS

ADMINISTRATIVE LAW JUDGE:
Brian C. Schneider
Division of Hearings and Appeals

INDINGS OF FACT

1. Petitioner (CARES # [redacted]) is a 13-year-old resident of Green County who receives MA.
2. On August 29, 2012, Orthotics Specialists of Madison requested prior authorization on petitioner's behalf for orthodontia , PA no. [redacted]. By a letter dated September 5, 2012, the DHCAA denied the request.
3. Petitioner's "Salzmann" score was 23. There are no documented extenuating circumstances.

DISCUSSION

Orthodontia is not an MA-covered service. Wis. Admin. Code, §DHS 107.07(4)(j). However, medical services provided to recipients under age 21 pursuant to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) must be covered if the EPSDT health assessment and evaluation indicates that they are needed. 42 C.F.R. §441.56(c); Wis. Admin. Code, §DHS 107.22(4). Prior authorization is granted when the generic authorization criteria at §DHS 107.02(3) are met. Those criteria include the requirement of medical necessity. The DHCAA has defined medical necessity in its policy document, the Prior Authorization Guidelines Manual, page 125.004.03. The Manual requires a Salzmann Index score of 30, or the documentation of unusual circumstances that make the recipient's malocclusion handicapping. See also the MA Providers Handbook. Part B, Appendix B118.

The Salzmann score is a rating of the person's dental malocclusion, that is, how far from normal occlusion the person's teeth are. Petitioner's Salzmann score, as determine d by the DHCAA dental consultant, is 23. Extenuating circumstances could be that, despite a low Salzmann, the malocclusion causes the person to have unusual difficulty eating or speaking, or the person has documented psychological problems caused by the abnormal occlusion.

There are essentially two means to determine that a request should be granted when the DHCAA determines a Salzmann score to be below 30. One way would be to provide evidence and argue that the Salzmann score actually is 30 or above. The other way is to provide evidence of extenuating circumstances.

Petitioner presented a letter from his orthodontist saying that the failure to correct petitioner's crossbites could lead to dental wear of teeth numbers 7 and 10. However, the possibility of dental wear is insufficient to show extenuating circumstances for full orthodontia. Dr. Bird urges the program to approve at least limited maxillary braces to correct the crossbites. In fact the program likely would be amenable to doing so, but Dr. Bird would have to file a new prior authorization request specifically for the limited maxillary braces. As an administrative law judge I do not have authority to grant a different procedure than the one that was requested leading to the appeal.

CONCLUSIONS OF LAW

Petitioner does not meet the MA criteria for orthodontia because his Salzmann score is less than 30 and extenuating circumstances have not been shown to exist.

THEREFORE, it is **ORDERED**

That the petition for review herein be and the same is hereby 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 3rd day of December, 2012

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\sBrian C. Schneider
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 3, 2012.

Division of Health Care Access And Accountability