



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MPA/144948

PRELIMINARY RECITALS

Pursuant to a petition filed October 30, 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 telephonic hearing was held on November 20, 2012, at Green Bay, Wisconsin.

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

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Representative:

[REDACTED], mother
[REDACTED]

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 10 year old resident of Brown County.
2. On or about September 26, 2012, petitioner's provider, Dental Associates, requested prior authorization on petitioner's behalf for orthodontia at a cost of \$ 5,966.00. See Exhibit 2.

3. The Division of Health Care Access and Accountability (DHCAA) sent a September 27, 2012 letter to the petitioner stating that her PA request for orthodontia was denied due to lack of medical necessity because petitioner does not have a severe malocclusion. See Exhibit 1.
4. Petitioner's "Salzmann" score was 15. Petitioner did not establish any "extenuating circumstances" for approval of her prior authorization request.

DISCUSSION

Orthodontia is not an MA-covered service. Wis. Adm. 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. Adm. Code, §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 determined by the DHCAA dental consultant, is 15. 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. Neither the petitioner's mother nor her orthodontist were able to establish any problem that rose to the level of an "extenuating circumstance."

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 petitioner did not make such argument. The other way is to provide evidence of extenuating circumstances. The petitioner did not provide evidence to establish any extenuating circumstances, but petitioner's mother explained that she was worried about the over-crowding of her daughter's teeth.

There is no evidence in the hearing record that the DHCAA's determination of petitioner's Salzmann score was incorrect. While I can certainly understand why petitioner and her mother would desire the braces to straighten her teeth, I do not have the authority to disregard the department's approval criteria. Accordingly, based upon the above, I conclude that the Division correctly denied petitioner's PA request for orthodontia because petitioner does not meet the MA criteria for orthodontia because her Salzmann score is less than 30 and extenuating circumstances have not been established.

CONCLUSIONS OF LAW

Petitioner does not meet the MA criteria for orthodontia because her Salzmann score is less than 30, and extenuating circumstances have not been established.

THEREFORE, it is

ORDERED

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

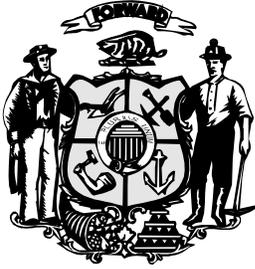
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 11th day of January, 2013

\sGary M. Wolkstein
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 January 11, 2013.

Division of Health Care Access And Accountability