



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MPA/146059

PRELIMINARY RECITALS

Pursuant to a petition filed December 19, 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 January 22, 2013, at Ladysmith, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for orthodontia.

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: 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:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Rusk County.

2. On November 9, 2012, the petitioner with his dental provider, Robert Kay, requested authorization for orthodontia. The Division of Health Care Access and Accountability denied the request on November 14, 2012.
3. The petitioner's Salzmann score is 28.
4. The petitioner's request did not include any documentation from a mental health professional indicating that the crookedness of his teeth psychologically impairs him.

DISCUSSION

Orthodontia is covered by medical assistance if the recipient receives prior authorization. To receive authorization, a service must be medically necessary (as opposed to cosmetic, or socially desirable). Wis. Admin. Code, § DHS 107.02(3)(e). The Division of Health Care Financing approves requests as medically necessary where the recipient has a Salzmann Index score of 30 or greater. *See MA Provider Handbook*, p. B5.2-070. (The Salzmann Index considers several factors to measure the overall crookedness of teeth.) Exceptions to this policy standard are allowed for extenuating circumstances documented by the provider. *Id.*

The Division of Health Care Access and Accountability denied the petitioner's request because his Salzmann score is 28. His mother testified that her son is on the autism spectrum and he suffers psychological harm because other children ridicule his appearance. She also contends that he frequently bites his cheek, lip, and tongue.

The Department requires those seeking orthodontic work because of the psychological impact of crooked teeth to document the claim with a statement by a mental health professional and to forward this statement to the psychiatrist consultant, who then sends his opinion to the Department's dental consultant for final review and adjudication. *Id.* The petitioner's mother was believable, but without a statement from a mental health professional, I cannot overturn the agency's decision.

There also is no documentation by the petitioner's dentist that the petitioner bites parts of his mouth excessively. Again, although I find his mother credible, I must have some medical documentation to find an extenuating circumstance that justifies overturning the Division's denial.

I note that nothing prevents the petitioner from filing a new prior authorization request. If he submits a new request, it should contain the documentation discussed in this decision. Any such documentation should specifically support any conclusion reached; statements that provide a conclusion without an adequate factual basis for the conclusion are generally insufficient.

CONCLUSIONS OF LAW

The petitioner has not proved by the preponderance of the credible evidence that the requested orthodontia 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 22nd day of January, 2013

\sMichael 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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 22, 2013.

Division of Health Care Access And Accountability