



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
208 Foxdale Dr., #2  
Sun Prairie, WI 53590

DECISION

MPA/147605

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed February 21, 2013, 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 (Division or DHCAA) in regard to Medical Assistance (MA)/BadgerCare Plus, a hearing was held on March 26, 2013, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for root canal treatment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By written submission of 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:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County. She is certified for MA/BadgerCare Plus.

2. On January 23, 2013, a prior authorization request was submitted on the petitioner's behalf for root canal treatment to tooth #31, a lower molar. On January 25, 2013, the Division issued written notice to the petitioner, advising that the request was denied. The petitioner appealed therefrom.
3. The Division's basis for denial was that the requested service was not appropriate for the petitioner. Specifically, the Division was concerned that tooth #31 had no occlusion with its opposite molar. This means that restoring the tooth would not increase the petitioner's ability to chew food.
4. The petitioner, age 38, is missing five teeth in addition to her missing four "wisdom teeth". Tooth #31 also has been heavily restored and has a guarded long-term prognosis. See Exhibit 2, request form with x-rays. There are no medical contra-indications to dental extraction for the petitioner.

### **DISCUSSION**

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 inside 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.

Per Wis. Admin. Code § DHS 107.07(3)(a), the Division is allowed to impose "reasonable limitations" on reimbursement of covered services. Division policy declares that root canals are limited to once per tooth per lifetime unless extenuating circumstances exist, and that root canals will not be performed on third molars/wisdom teeth. The petitioner's case does not run afoul of those requirements. *Prior Authorization Guidelines Manual* 124.004.02 (1/29/08). Turning to the policy denial criteria, the petitioner's situation *does* run afoul of criterion #8 – "a non-functional occlusion for the tooth due to missing teeth in the opposing dental arch or quadrant." Finally, I was unable to locate any further legal or policy authority at 42 C.F.R. 440.100 or [www.cms.gov/home/regsguidance.asp](http://www.cms.gov/home/regsguidance.asp).

The tooth for which service is requested does not make contact with the opposing molars for chewing. Therefore, I conclude that the denial of this request was appropriate. Extraction remains an option for this tooth.

### **CONCLUSIONS OF LAW**

The Division correctly denied the instant prior authorization request for root canal therapy, due to lack of appropriateness.

**THEREFORE, it is**

**ORDERED**

That the petition 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 27th day of March, 2013

---

\sNancy J. Gagnon  
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 March 27, 2013.

Division of Health Care Access And Accountability