



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/148451

PRELIMINARY RECITALS

Pursuant to a petition filed March 29, 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 ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on May 21, 2013.

The issue for determination is whether petitioner is eligible for payment by the MA program for a root canal on tooth #14 (a molar).

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Robert Dwyer, DDS [Dr. Dwyer did not appear at the May 21, 2013 Hearing but submitted a letter dated April 8, 2013 with attachments.]

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (age 22 years; CARES # [REDACTED]) is a resident of Brown County.

2. Petitioner's provider (Dental Associates of Sturtevant, Wisconsin) requested Prior Authorization ["PA"] (PA dated February 23, 2013) for MA coverage for a root canal procedure for petitioner's tooth #14 (a molar) at a total cost of \$1,200.00.
3. DHCAA denied the PA request for a root canal procedure for petitioner's tooth #14; DCHAA sent petitioner a letter dated March 4, 2013 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of this denial.
4. Petitioner's tooth #14 is not restorable as determined by the DCHAA Dental Consultant.

DISCUSSION

In this case, as with any eligibility denial, the burden is on petitioner to show that she is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to do so.

A root canal is an endodontic service. In general, endodontic services are covered by MA. Wis. Admin. Code § DHS 107.07(1)(d) (May 2009). However, molar root canal therapy for MA recipients ages 21 and over requires PA in order to be reimbursed under MA. Wis. Admin. Code § DHS 107.07(2)(a)1. (May 2009).

Root canals can be denied if x-rays indicate the tooth is non-restorable or if there is poor prognosis for successful root canal therapy. *Prior Authorization Guidelines Manual* 124.004.04 (1/29/08). In this case, the DCHAA Dental Consultant determined with regard to petitioner's tooth #14 "that due to extensive decay the tooth in question is non-restorable . . . ". Petitioner did not dispute this. In fact, petitioner testified that she had a cavity when he was young and that 70% of her tooth #14 had a filling. Therefore, the denial of PA must be sustained.

Petitioner also testified that her tooth #14 was a "guider" tooth and removing it would cause her other teeth to become deformed. However, petitioner has not offered any medical evidence to support her testimony.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for payment by the MA program for a root canal on tooth #14 (a molar).

NOW, THEREFORE, it is

ORDERED

that the petition for review herein 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 28th day of May, 2013

\sSean P. Maloney
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 May 28, 2013.

Division of Health Care Access And Accountability