



FH

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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/148667

PRELIMINARY RECITALS

Pursuant to a petition filed April 09, 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 in regard to Medical Assistance, a hearing was held on May 23, 2013, at Alma, 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]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Dr. Robert Dwyer
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 is a resident of Buffalo County.

2. On February 18, 2013, the petitioner with [REDACTED] [REDACTED] requested authorization for orthodontia. The Division of Health Care Access and Accountability denied the request on February 25, 2013.
3. The petitioner's Salzman index score is 25.
4. The only description of the petitioner's orthodontic problems in the prior authorization request is the following in the Diagnosis section of that document:

CLASS I MALOCCLUSION RIGHT AND LEFT; 100% DEEP BITE; MAXILLARY LEFT FIRST BICUSPID IN BUCCAL CROSSBITE; MAXILLARY LEFT SECOND BICUSPID LINGUALLY ERUPTING.

DISCUSSION

Medical assistance covers orthodontia if the recipient obtains prior authorization. To receive authorization, a service must be medically necessary rather than merely socially desirable or cosmetic. Wis. Admin. Code, § DHS 107.02(3)(e). The Division of Health Care Access and Accountability uses the Salzman Index, which measures the crookedness of teeth (referred to as a malocclusion), as the first step in determining whether orthodontia is medically necessary. It automatically approves requests where the score is 30 or greater; if the score falls below 30, it denies the request unless it contains documentation of extenuating circumstances. *See MA Provider Handbook*, p. B5.2-070. The Division of Health Care Access and Accountability denied the petitioner's request because his Salzman score is 25 and the prior authorization request did not include adequate documentation of extenuating circumstances.

The petitioner's mother testified that he has a tooth erupting in the roof of his mouth, which is uncomfortable and has led to a callous on his tongue. The prior authorization indicates only that he has a bicuspid in a buccal crossbite and a lingually erupting bicuspid. Bicuspids are the teeth between the canines and the molars. A buccal crossbite occurs when an upper tooth is so far toward the cheek that it misses the lower tooth's biting surfaces. A lingually erupting bicuspid is one that is erupting toward the tongue. Nothing in this description indicates the severity of the petitioner's problems or that they are any greater than those generally associated with crooked teeth. I do not question the testimony of his mother, but medical assistance rules require the request itself to include adequate documentation of the extenuating circumstance. Because the request does not include adequate documentation, I must uphold the Division's denial.

CONCLUSIONS OF LAW

The Division of Health Care Access and Accountability correctly denied the petitioner's request for orthodontia because he has not established by the preponderance of the credible evidence that he has a handicapping malocclusion.

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 23rd day of May, 2013

\sMichael D. O'Brien
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 23, 2013.

Division of Health Care Access And Accountability