



FH
[REDACTED]

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

In the Matter of

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

DECISION

HMO/149135

PRELIMINARY RECITALS

Pursuant to a petition filed May 01, 2013, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on June 19, 2013.

The issue for determination is whether the petitioner’s HMO correctly denied petitioner’s prior authorization request for orthodontic treatment for the petitioner.

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: Lucy Miller, Nurse Consultant
Division of Health Care Access And Accountability

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 15 year old resident of Milwaukee County who receives Medical Assistance through Community Connect Health Plan/Southeast Dental Associates (SEDA) HMO.

2. Petitioner's dental provider submitted a Prior Authorization request for orthodontia services to SEDA HMO. That HMO denied the prior authorization request, and the petitioner pursued a formal grievance of the HMO denial with the Division of Health Care Access and Accountability (DHCAA).
3. The DHCAA sent an April 15, 2013 letter to petitioner stating that a Dental Consultant reviewed the dental records, and determined that petitioner did not meet a minimum Salzman Index qualifying limit. See, Exhibit 1. The letter indicated that the DHCAA upheld the HMO decision to deny orthodontic treatment for the petitioner. The letter provided information on how to appeal the decision to the Division of Hearings and Appeals (DHA). Petitioner's mother filed an appeal with DHA on May 1, 2013.
4. Prior to hearing, additional dental records were received and reviewed by the respondent on June 6, 2013. On June 7, 2013, the respondent issued an update of its position, which confirmed its original determination of denial. See, Exhibit 2.
5. The petitioner has not documented any extenuating mental health circumstances that demonstrate the medical necessity that the petitioner requires orthodontia based upon MA policy.

DISCUSSION

The petitioner is a resident of Milwaukee County. Low-income families with children who are on the Wisconsin Medicaid or BadgerCare programs in Milwaukee County are mandated to receive their Medicaid or BadgerCare benefits through an HMO. The HMOs are under contract to provide the same services as those provided to persons on straight, fee-for service Medicaid or BadgerCare, as stated in the HMO contract, Article III.B.

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 DHCAA 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 receives documentation of extenuating circumstances. See *MA Provider Handbook*, p. B5.2-070. The petitioner's Salzman score, as determined by the DHCAA dental consultant, was 15.

During the hearing, petitioner's mother failed to provide any evidence to establish that the requested orthodontia was medically necessary due to any extenuating circumstances. Extenuating circumstances could be evidence that, despite the "low" Salzman, the malocclusion causes the person to have unusual difficulty eating or speaking, or the person has documented psychological problems caused by the abnormal occlusion. Petitioner's mother testified that the petitioner would benefit from orthodontic treatment at this time due to certain difficulties with chewing and impact on his speech. See, Exhibit 1. However, none of this was documented in the prior authorization request or anywhere else in the record. I specifically note that the June 17, 2013 correspondence from petitioner's provider does not reference any issues with chewing or speech difficulties related to the malocclusion. See, Exhibit 3. There was no other description of the petitioner's extenuating circumstances anywhere else in the documents. As the petitioner's Salzman Score is under 30, and because neither the petitioner nor the petitioner's provider documented any extenuating circumstances, I must uphold the Division's decision.

I note that nothing prevents the petitioner and his provider from submitting a new request that properly documents the petitioner's extenuating circumstances. I cannot rule at this time whether either the Division or I will find those circumstances adequate to support orthodontia.

Accordingly, based upon the evidence in the record, I conclude that petitioner's HMO, SEDA, correctly denied petitioner's prior authorization request for orthodontic treatment.

CONCLUSIONS OF LAW

The petitioner's HMO, Community Connect Health Plan/Southeast Dental Associates, correctly denied petitioner's prior authorization request for orthodontic work because petitioner did not meet the Salzman test to establish a severely handicapping malocclusion and has not established any extenuating circumstances.

NOW, THEREFORE, it is ORDERED

That 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 July, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
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 July 11, 2013.

Division of Health Care Access And Accountability