



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/150254

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 22, 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 July 22, 2013, at Madison, Wisconsin.

The issue for determination is whether the Department erred in its denial of the PA # [REDACTED] for orthodontic and dental work in the amount of \$5,354.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[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:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner's provider requested prior authorization for orthodontic work on January 17, 2013.

3. The Department denied the PA on January 30, 2013.
4. Petitioner has a Salzmans score of 17.

### **DISCUSSION**

Orthodontia is not an MA-covered service. Wis. Adm. Code, §DHS 107.07(4)(j). However, medical services provided to recipients under age 21 pursuant to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) must be covered if the EPSDT health assessment and evaluation indicates that they are needed. 42 C.F.R. §441.56(c); Wis. Adm. Code, §DHS 107.22(4). Prior authorization is granted when the generic authorization criteria at §DHS 107.02(3) are met. Those criteria include the requirement of medical necessity. The DHCAA has defined medical necessity in its policy document, the Prior Authorization Guidelines Manual, page 125.004.03. The Manual requires a Salzmans Index score of 30, or the documentation of unusual circumstances that make the recipient's malocclusion handicapping. See also the MA Providers Handbook, Part B, Appendix B118.

The Salzmans score is a rating of the person's dental malocclusion, that is, how far from normal occlusion the person's teeth are. Petitioner's Salzmans score, as determined by the DHCAA dental consultant, is 17. Extenuating circumstances could be that, despite a low Salzmans, the malocclusion causes the person to have unusual difficulty eating or speaking, or the person has documented psychological problems caused by the abnormal occlusion.

There are essentially two means to determine that a request should be granted when the DHCAA determines a Salzmans score to be below 30. One way would be to provide evidence and argue that the Salzmans score actually is 30 or above. The other way is to provide evidence of extenuating circumstances.

There is no evidence that the DHCAA's determination of the Salzmans score was incorrect. The provider failed to document any extenuating circumstances in its PA request that was submitted to the Department.

At hearing, petitioner's mother testified that petitioner's teeth cause pain, and distraction and low self-esteem. But, there was no professional testimony by the orthodontist, primary care physician, social worker or mental health provider to support a claim of medical necessity. No history of these issues was supported by documentation. It is the burden of the petitioner or the provider to establish that the services are medically necessary. Petitioner did not meet its burden.

It may be advantageous for petitioner to request that his provider submit a new request for PA in which the provider endeavors to explain why the work is medically necessary despite the petitioner's Salzmans score of 17. But, the Department did not err in denying the original PA request as that did not support a finding of extenuating circumstances.

### **CONCLUSIONS OF LAW**

The provider failed to meet its burden to establish that the orthodontic work is medically necessary.

**THEREFORE, it is**

**ORDERED**

That this 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 6th day of September, 2013

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\sJohn P. Tedesco  
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 September 6, 2013.

Division of Health Care Access And Accountability