



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/151430

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 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 September 09, 2013, at Green Bay, Wisconsin.

The issue for determination is whether the Department erred in its denial of PA request # [REDACTED] for root canal procedure.

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: Robert Dwyer, DDS (in writing)
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 Brown County.

2. On 6/18/13, petitioner's provider filed a request for PA for root canal procedure. On the attachment, the provider checked the box indicating that more than 50% of the clinical crown is intact.
3. On August 14, 2013, the Department notified petitioner that the request was denied.
4. Petitioner filed a timely appeal.

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 insides 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 "special considerations" criteria, the Department consultant argues that petitioner's situation *does* run afoul of criterion #4 – "evidence visible on radiographs that at least 50% of the natural clinical crown is intact."

The dentist who completed the prior authorization request noted that the petitioner has 50% of his natural crown remaining on tooth #30. The Department dentist stated otherwise in the letter (ex. #3) bearing his opinion and conclusion. On this record, I cannot determine which dentist is correct. Petitioner did not present his dentist's testimony, or any documentary exhibits. In a hearing on the denial of a PA, it is the burden of the petitioner and provider to establish the medical necessity and appropriateness of the procedure by a preponderance of the evidence. On this record, petitioner has failed to meet his burden

CONCLUSIONS OF LAW

The petitioner failed to establish that the procedure is appropriate.

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 1st day of November, 2013

\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 November 1, 2013.

Division of Health Care Access And Accountability