



FH

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

In the Matter of

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

DECISION

MPA/155758

PRELIMINARY RECITALS

Pursuant to a petition filed February 27, 2014, 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 March 20, 2014, at New Richmond, Wisconsin.

The issue for determination is whether the Division correctly denied the petitioner's request for orthodontia because she was not eligible for medical assistance.

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, Room 651
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 St. Croix County.

2. The petitioner with her dental provider submitted a request for orthodontia on August 26, 2013. She was not eligible for medical assistance on that date.
3. The Office of Inspector General returned the file to the provider on August 28, 2013, because the petitioner was ineligible for medical assistance. When the Office did not receive a response, it inactivated the petitioner's request on October 3, 2013.

DISCUSSION

The petitioner seeks medical assistance reimbursement for orthodontia, which is covered by the program under "other services" if the recipient obtains prior authorization. Wis. Admin. Code, § DHS 107.22(4). But the program does not pay for services for those who are ineligible on the date of the service. Wis. Admin. Code, § DHS 107.02(2)(d). On August 28, 2013, the date the petitioner's orthodontist submitted a request for orthodontia, she was ineligible for medical assistance. The Office of Inspector General returned the request to the provider a few days later because of this. The petitioner apparently regained her eligibility at some point, but the provider did not resubmit the request, and the Office inactivated it on October 3, 2013. The Office's action was correct because it had no authority to pay for a service sought while the petitioner was ineligible for medical assistance. I note, nevertheless, that if she is now eligible her orthodontist can submit a new request on her behalf.

CONCLUSIONS OF LAW

The petitioner was ineligible for medical assistance coverage of orthodontia because she was ineligible for the program on the date her provider submitted the request of the service.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 24th day of March, 2014

\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 March 24, 2014.

Division of Health Care Access and Accountability