



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
c/o ██████████
██████████
██████████

DECISION

MPA/156077

PRELIMINARY RECITALS

Pursuant to a petition filed March 17, 2014, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for orthodontia, a hearing was held on April 17, 2014, by telephone.

The issue for determination is whether petitioner meets the criteria for orthodontia.

PARTIES IN INTEREST:

Petitioner:

██████████
c/o ██████████
██████████
██████████

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Written submission of Robert Dwyer, DDS

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 15-year-old resident of Fond du Lac County who receives MA.
2. On January 22, 2014, Dental Associates requested prior authorization on petitioner's behalf for orthodontia. By a letter dated February 3, 2014, the DHCAA denied the request.
3. Petitioner's "Salzmann" score was 20. There are no documented extenuating circumstances.

DISCUSSION

Orthodontia is not an MA-covered service. Wis. Admin. 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. Admin. 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 Salzmann Index score of 30, or the documentation of unusual circumstances that make the recipient's malocclusion handicapping. See also www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=15&s=2&c=530&nt=Severe+Malocclusion, which is the Department's MA Providers Handbook, specifically related to dental issues, Topic 2909.

The Salzmann score is a rating of the person's dental malocclusion, that is, how far from normal occlusion the person's teeth are. Petitioner's Salzmann score, as determined by the DHCAA dental consultant, is 20. Extenuating circumstances could be that, despite a low Salzmann, 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 he has Asperger's Syndrome and that he is particularly prone to social interaction limitations that are exacerbated by his self-consciousness about his teeth. She was unable to obtain medical documentation of the problem because his counselor unexpectedly retired recently. The problem is that in cases where the extenuating circumstances are due to mental or emotional problems, the Department requires a referral from a mental health professional. See Topic 2909 cited above. In this case, therefore, before the DHCAA even will consider orthodontia based upon petitioner's mental health, there MUST be something in writing from a mental health practitioner. While I realize that the policy puts petitioner in a difficult position because his counselor retired, the door is still open that a new PA request can be filed with the documentation provided by petitioner's new counselor or his ongoing psychiatrist.

CONCLUSIONS OF LAW

Petitioner does not meet the MA criteria for orthodontia because his Salzmann score is less than 30 and extenuating circumstances have not been shown to exist.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 21st day of April, 2014

\sBrian C. Schneider
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 April 21, 2014.

Division of Health Care Access and Accountability