



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/159756

PRELIMINARY RECITALS

Pursuant to a petition filed August 8, 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 (DHCAA or Division) in regard to Medical Assistance (MA), a hearing was held on October 1, 2014, by telephone.

The issue for determination is whether the Department correctly denied a prior authorization request for root canal therapy for the petitioner.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By written submission of 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:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. He is certified for MA.

2. On July 10, 2014, a prior authorization request (#5...169) was submitted on the petitioner's behalf for root canal (endodontic) therapy for tooth #27. The Division issued written notice of denial on July 21, 2014.
3. The Division's basis for denial was that the requested service was not appropriate for the petitioner. Specifically, the Division was concerned that tooth #27 is not restorable.
4. The petitioner, age 64, is missing his "wisdom teeth" (teeth ##1, 16, 17, 32), plus teeth #3, #4, #5, #12, #13, #15, #19, and #31. The petitioner does have tooth #6 in occlusion with #27, so the tooth #27 is useful for chewing. However, tooth #27 has less than 50 percent of its surface remaining. See Exhibit 2, x-ray included with the prior authorization request. In the opinion of the Division's consulting dentist, an insufficient amount of the tooth remains for restoration. There are no medical contra-indications to dental extraction for the petitioner.

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 inside 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. Department policy also states that there must be a strong likelihood that the treatment will be successful and definitive – that is, that it will not later result in extraction. The petitioner's situation *does* run afoul of one of the other criteria related to that likelihood of success requirement – "evidence visible on radiographs that at least 50% of the natural clinical crown is intact." Finally, I was unable to locate any further legal or policy authority at 42 C.F.R. 440.100 or www.cms.gov/home/regsguidance.asp.

The dentist who completed the prior authorization request noted that the petitioner has less than 50% of his natural crown remaining on tooth #27. An x-ray of that tooth was included with the authorization request. The Department's dentist looked at it and concluded that less than 50% of the clinical crown remained. I have viewed the photocopy of that x-ray and reach the same conclusion. Therefore, I conclude that the denial of this request was appropriate. Extraction remains an option for this tooth.

CONCLUSIONS OF LAW

The Division correctly denied the instant prior authorization request for root canal therapy, due to lack of appropriateness.

THEREFORE, it is

ORDERED

That the petition 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 27th day of October, 2014

\sNancy J. Gagnon
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 October 27, 2014.

Division of Health Care Access and Accountability