



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
[Redacted]
[Redacted]

DECISION

MPA/161035

PRELIMINARY RECITALS

Pursuant to a petition filed October 02, 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 telephonic hearing was held on November 19, 2014, at Portage, Wisconsin. At the request of petitioner's representative, the record was held open until December 15, 2014 to submit a letter from petitioner's orthodontist, Dr. [Redacted]. Petitioner's representative did not submit a letter from Dr. [Redacted] to DHA by December 15, 2014 or even by the date of this Decision.

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

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Representative:

[Redacted], grandfather and legal guardian
[Redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Robert Dwyer, DDS, dental consultant
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a 15 year old resident of Columbia County.
2. On or about August 18, 2014, petitioner's provider, Dr. Redact Redact of Greater Madison Orthodontics, requested prior authorization (PA) on petitioner's behalf for orthodontia at a cost of \$5,900.00. See Exhibit 2.
3. The Division of Health Care Access and Accountability (DHCAA) sent an August 25, 2014 letter to the petitioner stating that his PA request for orthodontia was denied due to lack of medical necessity because petitioner does not have a severe malocclusion. See Exhibit 1.
4. Petitioner's "Salzmann" score was 23. Petitioner did not establish any "extenuating circumstances" for approval of his prior authorization request.
5. Petitioner's representative did not submit to DHA any letter from Dr. Redact. See above Preliminary Recitals.

### 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, §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 the MA Providers Handbook. Part B, Appendix B118.

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 23. 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. Neither the petitioner's grandfather nor his orthodontist were able to establish any problem that rose to the level of an "extenuating circumstance." See above Preliminary Recitals.

There are essentially two means to determine that a request should be granted when the DHCAA determines a Salzmann score to be below 30. One way would be to provide evidence and argue that the Salzmann score actually is 30 or above. The petitioner did not make such argument. The other way is to provide evidence of extenuating circumstances. The petitioner did not provide evidence to establish any extenuating circumstances, but petitioner's grandfather explained that he was worried about the over-crowding of his grandson's teeth and alleged without any medical documentation that Hunter had some difficulty chewing his food.

There is no evidence in the hearing record that the DHCAA's determination of petitioner's Salzmann score was incorrect. While I can certainly understand why petitioner and his grandfather would desire the braces to straighten his teeth, I do not have the authority to disregard the department's approval criteria. Accordingly, based upon the above, I must conclude that the Division correctly denied petitioner's PA request for orthodontia because petitioner does not meet the MA criteria for orthodontia because his Salzmann score is less than 30 and extenuating circumstances have not been established.

**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 established.

**THEREFORE, it is**

**ORDERED**

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 22nd day of December, 2014

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\sGary M. Wolkstein  
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 December 22, 2014.

Division of Health Care Access and Accountability