



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

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In the Matter of

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

DECISION

MPA/161133

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 6, 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 November 25, 2014, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for orthodontia.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
By: [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 Outagamie County. He is certified for MA/BadgerCare Plus.

2. On September 16, 2014, a prior authorization request was submitted on the petitioner's behalf for orthodontic treatment and adjustments. The Division issued written notice of denial on September 24, 2014.
3. The Division's basis for denial of the request was lack of medical necessity. Specifically, the Division determined that the petitioner's Salzmann Index score does not establish that he has a handicapping malocclusion. In the alternative, the Division asserts that there was no documentation in the authorization request of any unusual circumstances that cause the malocclusion to be handicapping.
4. The petitioner, age 12, has a Salzmann Index score of 20. He has no speech impediment, and he has managed to maintain a normal weight. He does not complain of dental or jaw pain.
5. The petitioner's teeth and jaw are off-kilter to such a degree that his orthodontist has recommended that the child have jaw surgery in lieu of orthodontia with a palatal expander.

### DISCUSSION

Orthodontia can be a covered service for certain MA recipients, subject to prior authorization. Wis. Admin. Code §DHS 107.07(2)(c)11. 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 medically necessary (as opposed to being needed, *e.g.*, for cosmetic, social or academic reasons). *Id.*, 1.

The petitioner has not met his burden of proving, by a preponderance of the credible evidence, that the requested orthodontia is *medically* necessary for him at this time. The Division's prior authorization document shows that the petitioner has a Salzmann Index score of 20 for his malocclusion. The Division's policy is to consider only children with Salzmann scores of at least 30 as having a malocclusion bad enough to pose a medical problem. *MA Prior Authorization Guidelines Manual*, p. 125.003.03 (5/93). On rare occasion, a petitioner has been able to show that a handicapping malocclusion exists despite a low Salzmann score, by providing documentation of a speech impediment, eating problem, or significant pain associated with the malocclusion.

The petitioner does not currently have a demonstrable medical problem due to the malocclusion at this time, so denial of his prior authorization request was reasonable and appropriate.

### CONCLUSIONS OF LAW

1. The requested orthodontia is not a medical necessity for the petitioner at this time.

**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 26th day of November, 2014

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\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 November 26, 2014.

Division of Health Care Access and Accountability