



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact
[Redacted]

DECISION

MPA/162293

PRELIMINARY RECITALS

Pursuant to a petition filed November 25, 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 (Division or DHCAA) in regard to Medical Assistance (MA)/BadgerCare Plus, a hearing was held on January 19, 2015, by telephone. A hearing set for January 8, 2015, was rescheduled at the petitioner's request.

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]
[Redacted]
Redact
[Redacted]

Respondent:

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

By written submission of [Redacted], 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 (CARES # Redact) is a resident of Milwaukee County. He is certified for MA.
2. On October 2, 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 October 14, 2014.
3. The Division's basis for denial of the request was lack of medical necessity. Specifically, the Division determined that the petitioner's Salzman 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 17, has a Salzman Index score of 8. Although he received speech therapy services through his school when younger, he currently does not have a speech impediment. He does not have to avoid solid food due to his teeth, and has managed to maintain a normal weight. The child does not complain of jaw/dental pain, or experience a jaw "popping" sound when chewing during a meal.
5. The petitioner has bones that are more fragile than normal due to albinism. His physician suggested that he consider wearing braces to prevent his teeth from shifting due to bone density issues.

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 Salzman Index score of 8 for his malocclusion. The Division's policy is to consider only children with Salzman 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 Salzman 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. If the petitioner's teeth should undergo a significant shift in the next year or two, he may wish to consider a re-evaluation of his need for orthodontia and a new prior authorization request.

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 20th day of January, 2015

\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 January 20, 2015.

Division of Health Care Access and Accountability