



FH

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/163001

PRELIMINARY RECITALS

Pursuant to a petition filed January 02, 2015, 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 hearing was held on March 17, 2015, at Waukesha, Wisconsin.

NOTE: The record was held open until March 31, 2015, to give Petitioner's mother an opportunity to submit additional medical documentation. On March 20, 2015, Petitioner's physician submitted a letter that has been marked as Exhibit 4 and entered into the record.

The issue for determination is whether the Petitioner meets approval criteria for orthodontic work.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: OIG by letter

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Waukesha County.
2. On October 29, 2014, [REDACTED], Petitioner's orthodontist, submitted a request for prior authorization of dental treatment and orthodontic services at a cost of \$4,031.00. (Exhibit 3, pg. 7)
3. Petitioner's Salzman Index Score is 25. (Exhibit 2; Exhibit 3, pg. 18)
4. On November 17, 2014, the Department of Health Services (DHS) sent the Petitioner and his orthodontist notice that the requested services were denied. (Exhibit 3, pgs. 20-25)
5. Petitioner's mother, on his behalf, filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 2, 2015. (Exhibit 1)
6. The Petitioner is 12 years old and suffers from Temporomandibular Joint pain (TMJ) and migraine headaches associated with his malocclusion. (Exhibits 3 and 4)

DISCUSSION

Medical assistance covers orthodontia if the recipient obtains prior authorization. To receive authorization, a service must be medically necessary rather than merely socially desirable or cosmetic. Wis. Adm. Code, § DHS 107.02(3)(e). Furthermore, there are some services that medical assistance will not cover even though a medical provider might believe that they will be helpful.

The Department of Health Services approves requests for orthodontia as medically necessary where there is a severe and handicapping malocclusion as determined by a Salzman Index score of 30 or greater. See Exhibit 2; see also *ForwardHealth's on-line provider handbook, topic #2909 at:*

<https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks>.

The Salzman Index measures the misalignment of teeth. A DHS dental consultant can make an exception to this rule, if extenuating circumstances exist, which support a finding that the patient's malocclusion is severe and handicapping. Id.

Petitioner's Salzman Index score is 25. However, Petitioner's physician indicated that she believes the Petitioner is suffering from migraine headaches and TMJ pain due to his malocclusion and that orthodontic work will alleviate these symptoms. (See Exhibit 4) Petitioner's mother testified credibly that the Petitioner's daily activities are interrupted by his migraines, because when they strike, he must lay down in a quiet, darkened room until the attack passes. Petitioner's mother also testified that the Petitioner constantly complains of pain in his jawline.

Based upon the foregoing, it is found that extenuating circumstances exist, which make the Petitioner's malocclusion severe and handicapping, even though his Salzman index score is five points below the 30 point threshold for general approval.

I note to the Petitioner that [REDACTED] will not receive a copy of this Decision. In order to have the requested service approved, the Petitioner must provide a copy of this Decision to [REDACTED], who must then submit a new prior authorization request to receive the approved coverage.

CONCLUSIONS OF LAW

The Petitioner meets the approval criteria for orthodontic work, under topic #2909 of the on-line provider handbook.

THEREFORE, it is

ORDERED

That [REDACTED] is approved to receive reimbursement for orthodontic services provided to the Petitioner under codes D8080 and D8670, as described in PA Number [REDACTED]

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 Milwaukee,
Wisconsin, this 23rd day of March, 2015.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 23, 2015.

Division of Health Care Access and Accountability