



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 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 (DHCAA or Division) in regard to Medical Assistance (MA), a hearing was held on December 15, 2015, by telephone.

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

There appeared at that time 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 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 # [REDACTED]) is a resident of Jefferson County. He is certified for MA.

- [REDACTED]
2. On October 8, 2015, 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 8, 2015.
 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 13, has a Salzman Index score of 6. Although lanky, no physician has advised the petitioner that he is underweight. He is able to eat solid foods. The child does currently occasionally experience occasional mild pain in his mouth.
 5. The petitioner's main concern has to do with an un-erupted lower molar, tooth #20. The tooth appears to be turned sideways. The petitioner would prefer to have this tooth extracted and replaced by an implant; the issue of extraction followed by an implant is beyond the scope of this hearing and hearing decision.

DISCUSSION

The petitioner clarified at hearing that he is contesting the denial of his orthodontia request.

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 6 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. The petitioner may wish to consult with his dentist on the topic of possible extraction of tooth #20. A surgical extraction may require prior authorization, per state code:

(2) SERVICES REQUIRING PRIOR AUTHORIZATION.

(a) All of the following dental services require prior authorization in order to be reimbursed under MA: ...

4. All of the following oral and maxillofacial surgery services:

a. Surgical extractions of teeth and tooth roots for orthodontia, or for asymptomatic impacted teeth.

...

Wis. Admin. Code § DHS 107.07(2)(a)4a. I suspect that the petitioner may encounter difficulty getting MA coverage for his desired implant, however, per DHS § 107.07(4)(i). If a surgical extraction is needed,

requested, and denied prior authorization, the petitioner may wish to file another hearing request on that topic after such a denial is received.

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 16th day of December, 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 December 16, 2015.

Division of Health Care Access and Accountability