



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

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In the Matter of

██████ ██████  
c/o ██████ ██████  
██████████████████  
██████████████████

DECISION

MPA/173256

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 28, 2016, 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 April 22, 2016, at Menomonie, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for orthodontia.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████ ██████  
c/o ██████ ██████  
██████████████████  
██████████████████

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Respondent:

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

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

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Dunn County.

2. The petitioner with [REDACTED] requested orthodontia on February 9, 2016. The Office of Inspector General denied the request on February 25, 2016.
3. The petitioner's Salzman score is 11.
4. The diagnosis of the petitioner's teeth in the prior authorization request stated in its entirety: "Class III malocclusion right and left; maxillary and mandibular right first molars have crossbite; mild to moderate crowding of anteriors in the mandibular arch." Nothing in the request indicated that the petitioner's teeth affect her eating or cause her any pain. Nor is there any indication that her jaw is out of alignment.

### 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. Admin. Code, § DHS 107.02(3)(e). The Division of Health Care Access and Accountability uses the Salzman Index, which measures the crookedness of teeth (referred to as a malocclusion), as the first step in determining whether orthodontia is medically necessary. It automatically approves requests where the score is 30 or greater; if the score falls below 30, it denies the request unless its consultant, "after a comprehensive review of the case," determines that "a severe malocclusion does exist." *Medicaid Online Handbook*, Topic # 2909.

The petitioner's score is 11. The request includes no documentation of extenuating circumstances. All it says about the petitioner's teeth is: "Class III malocclusion right and left; maxillary and mandibular right first molars have crossbite; mild to moderate crowding of anteriors in the mandibular arch." This gives the Office of Inspector General no basis for finding that any extenuating circumstances exist. The petitioner's mother testified that the petitioner's jaw joint is out of place and that it hurts when she eats. As I explained at the hearing, these types of claims must be supported by sufficient medical documentation in the prior authorization request from a dentist or orthodontist. To be sufficient, the evidence must explain how the crookedness of the petitioner's teeth led to these conditions and demonstrate that orthodontia will correct the conditions. The petitioner has the burden of proving by the preponderance of the credible evidence that the requested treatment is medically necessary. Because she has not done so, I must uphold the Office of Inspector General's decision.

### CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the requested orthodontia.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal 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 April, 2016

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\sMichael D. O'Brien  
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 April 26, 2016.

Division of Health Care Access and Accountability