



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MPA - 175852

PRELIMINARY RECITALS

Pursuant to a petition filed on July 27, 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 regarding Medical Assistance (MA), a hearing was held on October 13, 2016, by telephone.

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

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted] (written appearance only)
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Oconto County.
2. On or about May 27, 2016, the petitioner with Dental Associates, requested orthodontia at a cost of \$6,356.00. The Office of Inspector General denied the request on June 17, 2016.

3. The petitioner's Salzman score is 25.
4. Dental Associates' request gave the following diagnosis in establishing the basis for providing orthodontia to the petitioner: "Overall: class III malocclusion; Dental: R6: ¼ cl III R3: ¼ cl III L3: ½ cl III L6: ½ cl III; Skeletal: Class I (ANB 4.0 deg)." The request and documentation contain no other narrative explanation of the need for the orthodontia.
5. The petitioner's mother testified that petitioner's teeth are crooked and crowded. She reported no associated pain, bleeding, or headaches.

### 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. Exceptions to this policy standard are allowed for extenuating circumstances documented by the provider. *Id.*

The petitioner's score is 25. The request indicates a malocclusion, but does not reference any extenuating circumstances. The petitioner's mother testified that petitioner has crooked, crowded teeth, and that her orthodontist have told her that the orthodontia is necessary due to the way her jaw is growing; she has been told that petitioner will have an under bite. Although these are valid concerns, there is no medical documentation supporting a medical necessity determination, nor did the provider provide any documentation of extenuating circumstances here. Because of this, I must uphold the agency's decision.

Petitioner should be advised that she, with her provider, can always submit a new prior authorization request that documents extenuating circumstances and otherwise establishes the medical necessity of her orthodontia request.

### CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the petitioner's request for orthodontia because she has not shown by the preponderance of the credible evidence that she has a severe malocclusion.

**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, **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 8th day of November, 2016

\s \_\_\_\_\_  
Peter McCombs  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 8, 2016.

Division of Health Care Access and Accountability