



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

In the Matter of

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

DECISION
Case #: MPA - 175950

PRELIMINARY RECITALS

Pursuant to a petition filed August 1, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) of the Department of Health Services to deny Medical Assistance (MA) authorization for orthodontia, a hearing was held on August 25, 2016, by telephone.

The issue for determination is whether petitioner is eligible for payment by the Medical Assistance program for orthodontia.

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, WI 53703

Written submission by [REDACTED], D.D.S., Dental Consultant
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a twelve-year old resident of Jefferson County who receives Medical Assistance.
2. On or about May 31, 2016, the petitioner's dental provider, Dr. [REDACTED] of Dental Health Orthodontics, filed a request for prior authorization with the Division of Health Care Access (DHCAA) and Accountability of the Department of Health Services seeking Medical Assistance coverage of orthodontia. See Exhibit 2.
3. On June 20, 2016, DHCAA issued to the petitioner a written notice of denial of the requested orthodontia. DHCAA concluded that the medical necessity of the requested orthodontic services was not supported by the documentation submitted by her dental provider. See Exhibit 3.
4. On August 3, 2016, the petitioner filed an appeal of the denial of prior authorization.
5. In a letter dated August 8, 2016, DHCAA's dental consultant explained that he had concluded that petitioner has a "Salzmann score" of 26. The dental consultant also noted that petitioner's dental provider had not provided documentation of any "unusual or extenuating circumstances" with the Request for Prior Authorization.
6. The petitioner's teeth are crowded together. As a result, some of her teeth are pushing forward and she is unable to manipulate floss through the crowded teeth. During the two weeks prior to the hearing in this matter, the petitioner began to complain of pain in her mouth. She has not seen a dental provider since that time. She has not used any medication to alleviate the pain.

DISCUSSION

Orthodontia is not a service typically covered by Medical Assistance. Wis. Adm. Code, §DHS 107.07(4)(j). However, medical services, including orthodontic treatment, provided to recipients under age 21 pursuant to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) must be covered if the EPSDT health assessment and evaluation indicates that they are needed. 42 C.F.R. §441.56(c); Wis. Admin. Code, §DHS 107.22(4). In order to receive coverage for such orthodontic services, a recipient's health care provider must seek and obtain prior authorization from the Department of Health Services ("the department").

Wisconsin Administrative Code §DHS 107.02(3)(e) sets forth the general criteria that the department considers when deciding whether to grant prior authorization for a covered service. One of those general criteria is whether the service in question is medically necessary. The department, in turn, has developed a more detailed coverage policy for orthodontic treatment. That policy, provides, in relevant part that orthodontia will be covered if the recipient has "a severe and handicapping malocclusion determined by a minimum Salzmann Index of 30." The policy further indicates that in the absence of a qualifying Salzmann Index, orthodontia may still be covered if there is sufficient documentation of "extenuating circumstances." Medicaid Provider Online Handbook: Topic #2909. The Salzmann Index is a rating of an individual's dental malocclusion; that is, the extent to which an individual's teeth are not properly aligned. Extenuating circumstances may be found if the malocclusion of teeth causes unusual difficulty eating or speaking; mouth pain or headaches; or psychological problems.

Based on the department's coverage policy described above, there are essentially two means to obtain prior authorization for orthodontia: 1. An individual's dental provider can offer evidence that the Salzmann Index is, in fact, 30 or above, or 2. An individual's dental provider can offer evidence of extenuating circumstances. Petitioner's Salzmann score, as determined by the department's dental consultant, is 26. And, petitioner did not argue or present any evidence that the department's determination of the Salzmann score was incorrect. Petitioner's mother credibly testified that petitioner began to complain of mouth pain approximately two weeks prior to the hearing in this matter, a period of time which began after the prior authorization request was submitted. Petitioner has not to date used any type of medication to control that

pain nor has she had a chance to visit a dentist to attempt to determine the cause of that pain. Under these circumstances, there is insufficient evidence to establish the existence of extenuating circumstances that would justify Medical Assistance coverage for orthodontic treatment.

Petitioner's mother should note that if petitioner continues experiencing mouth pain and if a dentist or other health care provider indicates that this pain is the result of her dental malocclusion, she may consider asking the provider to submit a new prior authorization request that includes documentation regarding that pain and any other relevant extenuating circumstances to the department. An additional request for prior authorization may be submitted to the department at any time.

CONCLUSIONS OF LAW

Petitioner does not meet the Medical Assistance coverage criteria for orthodontia because her Salzmann Index is less than 30 and because extenuating circumstances have not been shown to exist.

THEREFORE, it is ORDERED

That 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 29th day of August, 2016

\s _____
Teresa A. Perez
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 August 29, 2016.

Division of Health Care Access and Accountability