



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1736
Romney, WV 26757
January 9, 2006

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

For _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 16, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage of Orthodontic Services for your child.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Orthodontic services are covered on a limited basis for Medicaid members less than 21 years of age, whose malocclusion creates a disability and impairs their physical development. Medicaid coverage for orthodontic services is provided based on medical necessity. Medically necessary orthodontic coverage is limited to services for dento-facial anomalies. This excludes impacted teeth, crowding, and cross bites. (West Virginia Provider Manual, Chapter 500, Volume 5, §524)

Information submitted at your hearing revealed that treatment of your child's current dental condition is not, based on current policy, a matter of medical necessity covered under the agency's Medicaid Program.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying your dentist's February 7, 2005 request for comprehensive orthodontic treatment.

Sincerely,

Sharon K. Yoho
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
Lynn Collins Pugh, WVDHHR, Bureau for Medical Services

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____ for _____,
Claimant,

v.

Action Number 05-BOR-6511

**West Virginia Department of Health & Human Resources,
Respondent.**

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on December 16, 2005 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing convened on December 16, 2005 for a timely appeal filed on July 6, 2005. All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau of Medical Services is responsible for the development of regulations to implement Federal and State requirements for the program.

III. PARTICIPANTS: all Participated by phone

_____, claimant's mother.

Lynn Collins Pugh, HHR Specialist, BMS, Agency Representative.

Dr. Chris Taylor, Orthodontic Consultant, BMS/DHHR.

Presiding at the hearing was Sharon K. Yoho, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in denying Orthodontic coverage through the Medicaid program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 500, Volume 5 §524
Medicaid Program Instruction MA-93-57 dated November 8, 1993
Medicaid Program Instruction MA-95-59 dated November 15, 1995

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 Request for Prior Authorization for Comprehensive Orthodontic Treatment dated 02/07/05
- D-2 Information Assessing Handicapping Malocclusion dated 02/07/05
- D-3 Notice of denial of reconsideration dated 06/07/05
- D-4 Medicaid Program Instruction MA-93-57 dated November 8, 1993
- D-5 Medicaid Program Instruction MA-95-59 dated November 15, 1995

VII. FINDINGS OF FACT:

- 1) The claimant requested a hearing July 6, 2005 as result of the June 7, 2005 denial of a February 7, 2005 request for orthodontic treatment. A hearing was originally scheduled for November 1, 2005 and rescheduled for December 16, 2005 at the claimant's request.
- 2) ██████████ DDS requested prior authorization for comprehensive orthodontic treatment on February 7, 2005. Dr. ██████████ included information and x-rays to justify Ms. _____'s need for orthodontic services.
- 3) Ms. _____ was reported to have a 60% overbite and a 4mm overjet. The Department looks for a 100% overbite and a 7mm overjet for eligibility. The following summary description was included in the report:
 - Facial Type - severe brachyfacial
 - Skeletal - class II division 1
 - Maxilla – mild prognathia
 - Mandible – mild prognathia
 - Upper Incisors - mild protrusion
 - Lower Incisors - normal
 - Lower Lip – moderate protrusion
 - Overjet – 4.1 mm
 - Overbite – 4.0 mm
- 4) Testimony from the agency revealed that X-rays, and a written report were reviewed. Some crowding is indicated and some overbite and overjet however; there are no indicates included in the report of problems with chewing or biting. No severe malocclusion was reported. Conditions were generally reported to be in the mild and moderate categories.

- 5) The claimant's mother, Ms. _____, was concerned that her daughter was determined ineligible for orthodontic service coverage when her son who's condition was no worse had been approved. No testimony was given to support that _____ was having difficulty with eating or having any adverse medical conditions because of her dental status.
- 6) Notification was sent on June 7, 2005 to Dr. [REDACTED] DDS advising that the request for Medicaid coverage for orthodontic services had been denied.
- 7) The claimant's mother submitted a request for a hearing on July 6, 2005.
- 8) Medicaid Program Policy MA-95-59 holds that medically necessary orthodontic coverage will be limited to dento-facial orthopedic services. This excludes impacted teeth, crowding, and cross bite cases. The following will be considered for coverage supporting documentation:
Cleft palate and other skeletal problems
Severe malocclusion associated with dento-facial deformity
- 9) Medicaid Program Policy MA-93-57 holds that the program is to look at medical service coverage in terms of medically necessary and appropriate care delivered in a cost effective manner. It is within the context of these realities that the Dental Consultant, to the Office of Medical Services, will be reviewing dental care plans and prior approval requests and in light of these considerations will deny treatment plans which call for expensive procedures and/or dental appliances, which in his judgment are not necessary to the long term well being of the patient.

VIII. CONCLUSIONS OF LAW:

- (1) Medicaid Program policy holds that medically necessary orthodontic coverage will be covered.
- (2) Medicaid coverage excludes impacted teeth, crowding, and cross-bite cases. Crowding and overbite are not covered conditions under the Medicaid Program. There was no evidence to support a severe malocclusion nor was there evidence to support a medical necessity for orthodontics.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the determination of the Agency in denying Medicaid coverage for comprehensive orthodontic treatment. Evidence presented fails to support a finding that the claimant's condition meets the guidelines for Medicaid covered orthodontic treatment.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 9th Day of January 2006.

**Sharon K. Yoho
State Hearing Examiner**