



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
416 Adams St.  
Fairmont, WV 26554

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

July 16, 2015



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-2316

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Angela Signore, BMS

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW**

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-2316**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on July 14, 2015, on an appeal filed June 18, 2015.

The matter before the Hearing Officer arises from the March 25, 2015, decision by the Respondent to deny authorization for Medicaid payment of orthodontic services for Appellant.

At the hearing, the Respondent appeared by Virginia Evans, Bureau for Medical Services. Appearing as a witness for the Respondent was ██████████, DDS, and Orthodontic Consultant for the Bureau for Medical Services. The Appellant, represented by her mother, ██████████, appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 WV Medicaid Provider Manual Chapter 505 – Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services - § 505.8
- D-2 Information received for medical necessity evaluation request for orthodontia services
- D-3 Initial Denial Notification dated March 25, 2015

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

## **FINDINGS OF FACT**

- 1) In response to Appellant's request for Medicaid payment of orthodontia services (D-2), Respondent, by the Bureau for Medical Services' (BMS) contracted agent, issued an Initial Denial Notification (D-3) indicating that the clinical information submitted for prior authorization by the provider does not demonstrate medical necessity – "Patient's malocclusion does not meet any of the criteria for treatment to be covered by BMS."
- 2) Respondent's witness, Dr. [REDACTED], DDS, an orthodontic consultant for BMS, proffered testimony to indicate that the prior authorization request submitted for Medicaid payment of orthodontia services revealed the Appellant is demonstrating a diagnosed Dental Class II malocclusion, an overjet of 6 millimeters, and an overbite of 50 percent. Dr. [REDACTED] reviewed the pictures and x-rays (D-2) and explained that the Dental Class II malocclusion diagnosis indicates the lower molars bite just behind the ideal position with the upper teeth, however, eligibility criteria requires that the offset be a "full cusp" Class II or Class III – which means the offset must be misaligned by at least the distance of half of a tooth or more. Dr. [REDACTED] purported that the overjet distance of 6 millimeters is accurate according to the information he reviewed, but policy requires the overjet to be at least 7 millimeters to qualify. Dr. [REDACTED] noted that while the Appellant has a 50 percent overbite, the overbite must be 100 percent with palatal impingement to demonstrate medical necessity. Dr. [REDACTED] acknowledged some crowding and misalignment of teeth, but because the Appellant did not meet any medical necessity criteria, Medicaid payment of orthodontia services could not be approved.
- 3) Appellant's representative/mother indicated that she understood the findings reviewed by Respondent, but felt that her daughter was likely going to meet the medical eligibility criteria in the near future and did not understand the reason for waiting. Appellant's representative speculated that her daughter's speech is beginning to be impaired due to the need for orthodontic treatment, and Respondent encouraged Appellant's representative to secure new clinical documentation to be submitted for review.

## **APPLICABLE POLICY**

The WV Medicaid Provider Manual § 505.8 reads that medically necessity review of orthodontic services is based on InterQual criteria. Medical necessity must be established for approval of services.

Medicaid criteria dictates that molar relationships must be a full cusp classification from a normal Class II or Class III malocclusion, overjet must measure in excess of seven (7) millimeters, and overbite must be 100 percent with palatal impingement.

## **DISCUSSION**

Testimony from Respondent's expert witness held that InterQual criteria were not met and medical necessity of orthodontic services could not be established. While Appellant's representative contended that she did not see the point in waiting for Medicaid authorization, as she believed her daughter's orthodontic needs would only get worse and eventually meet medical necessity criteria, Respondent is bound by policy and can only approve individuals who currently meet the eligibility criteria.

## **CONCLUSIONS OF LAW**

Whereas medical necessity of orthodontic services could not be established based on the medical documentation submitted for review, Respondent's decision to deny Appellant's request for Medicaid payment of orthodontic services is affirmed.

## **DECISION**

It is the decision of the State Hearing Officer to **uphold** Respondent's denial of Medicaid payment for orthodontic services.

**ENTERED this \_\_\_\_ day of July 2015.**

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**Thomas E. Arnett  
State Hearing Officer**