



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
Raleigh County District  
407 Neville Street  
Beckley, WV 25801

Jolynn Marra  
Interim Inspector General

January 29, 2019



RE: [REDACTED], A JUVENILE v. WV DHHR  
ACTION NO.:18-BOR-2912

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Bureau for Medical Services

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

█, A JUVENILE,

Appellant,

v.

Action Number: 18-BOR-2912

**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 █, a juvenile. 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 January 24, 2019, on an appeal filed December 14, 2018.

The matter before the Hearing Officer arises from the October 16, 2018 decision by the Respondent to deny prior authorization for Medicaid payment of orthodontic services.

At the hearing, the Respondent appeared by Anita Ferguson, Bureau for Medical Services. Appearing as witnesses for the Respondent were Chris Taylor, DMD, Bureau for Medical Services; █ and █, The Health Plan. The Appellant appeared by his mother, █. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Bureau for Medical Services Provider Manual Chapter 505
- D-2 West Virginia Family Health Dental Services Policy
- D-3 Scion West Virginia Medicaid Prior Authorization Criteria – Orthodontic Services
- D-4 Authorization for Treatment dated October 10, 2018
- D-5 Medical Documentation
- D-6 Notice of Denial dated October 15, 2018
- D-7 Request for Appeal of Denial dated November 5, 2018
- D-8 Final Denial dated November 7, 2018

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) A request for prior authorization for Medicaid payment of orthodontic services was submitted on behalf of the Appellant by ██████████, DDS, MS, on October 10, 2018 (Exhibit D-4).
- 2) The Appellant was diagnosed with a Class I, missing upper left incisor, and upper midline diastema (Exhibit D-5).
- 3) The Respondent issued a Notice of Denial on October 15, 2018, advising that prior authorization for orthodontic services had been denied as the medical criteria had not been met (Exhibit D-6).
- 4) The Appellant requested an appeal of the October 15, 2018, denial for orthodontic services (Exhibit D-7).
- 5) The prior authorization request was reviewed by Chris Taylor, orthodontic consultant for the Respondent, and the initial denial for orthodontic services was upheld (Exhibit D-8).

### **APPLICABLE POLICY**

Bureau for Medical Services Provider Manual §505.1 states that orthodontic services for children up to 21 years of age must be medically necessary and requires prior authorization before services are provided.

Bureau for Medical Services Provider Manual §505.8 states that medical necessity review criteria is based on dental standards approved by the Bureau for Medical Services and is reviewed by the utilization management contractor.

West Virginia Medicaid Orthodontic Prior Authorization Form lists the criteria required to meet medical necessity (at least one must be met):

- An overjet in excess of 7 millimeters;
- A severe malocclusion associated with dento-facial deformity;
- A true anterior open bite;
- A full cusp classification from normal (Class II or Class III);
- Palatal impingement of lower incisors into the palatal tissue causing tissue trauma;
- Cleft palate, congenital or developmental disorder;

- Anterior crossbite (two or more teeth, in cases where gingival stripping from the crossbite is demonstrated and not correctable by limited orthodontic treatment);
- Unilateral posterior crossbite with deviation or bilateral posterior crossbite involving multiple teeth including at least one molar;
- True posterior open bite (not involving partially erupted teeth or one or two teeth slightly out of occlusion and not correctable by habit therapy); or
- Impacted teeth (excluding third molars) cuspids and laterals only.

### **DISCUSSION**

Orthodontic services must meet the medical necessity criteria in policy for the approval of Medicaid payment. The Appellant's request for orthodontic services was denied as the medical criteria had not been met.

The Appellant's referring practitioner requested orthodontic services to treat a Class I malocclusion, a missing incisor and diastema. The Respondent's witness, Dr. Taylor, testified that a malocclusion refers to how the upper and lower molars meet, and a Class I indicates that the Appellant's molars are fitting together properly. Dr. Taylor stated missing teeth and diastema, or spacing problems, is not listed in policy as conditions that meet the medical criteria for the approval of orthodontic services.

The Appellant's mother testified that braces are being requested to improve the Appellant's tongue placement to address his speech problems caused by his missing tooth. However, no documentation was submitted to support this assertion.

Based on the testimony and documentation submitted, the Appellant did not meet the medical necessity criteria found in policy for the approval of orthodontic services.

### **CONCLUSIONS OF LAW**

- 1) Orthodontic services must meet the medical necessity criteria found in policy before prior authorization is granted.
- 2) The documentation submitted by the Appellant's referring practitioner failed to meet any of the medical necessity criteria as set forth in policy.
- 3) Medical necessity for orthodontic services for the Appellant was not met.

**DECISION**

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

**ENTERED this 29<sup>th</sup> day of January 2019**

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**Kristi Logan  
State Hearing Officer**