



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton, WV 26354
March 28, 2005

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 March 4, 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. The following situations, with supporting documentation, will be considered for coverage: • Syndromes or craniofacial anomalies such as cleft palate, Alperst Syndrome or craniofacial dysplasia; • Severe malocclusion associated with dento-facial deformity. (West Virginia Provider Manual, Chapter 500, Volume 5, §524)

Information submitted at your hearing revealed that treatment of your child's current dental condition (overcrowding) is not, based on current policy, a matter of medical necessity.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying your dentist's July 9, 2004 request for comprehensive orthodontic treatment.

Sincerely,

Ron Anglin
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Lynn Collins, BMS

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 25, 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 March 4, 2005 for a timely appeal filed on December 27, 2004. 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:

_____, claimant's mother

Lynn Collins, HHR Specialist, BMS, Agency Representative (by phone)

Dr. Chris Taylor, Orthodontic Consultant (by phone)

Presiding at the hearing was Ron Anglin, State Hearing Officer 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 Provider 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:

E-1 Request for Prior Authorization for Comprehensive Orthodontic Treatment dated 7/9/04

E-2 Medicaid Program Instruction, MA-93-57 dated November 8, 1993

E-3 Medicaid Program Instruction, MA-95-59 dated November 15, 1995

VII. FINDINGS OF FACT:

(1) A hearing requested December 27, 2004 as result of denial of request for orthodontic treatment. Hearing scheduled for and held March 4, 2005.

(2) During the hearing, exhibits as noted in section VI above were submitted.

(3) Lynne Collins testified that Medicaid benefits for dental services are provided on a medically necessary basis and that submission of a request for consideration does not mean that approval will be granted. All such requests are subject to review by the agency's dental consultant.

(4) Dr Chris Taylor testified that the information he received consisted of photos, X-rays, models and a written report. He agrees with [REDACTED] conclusions. However, Program instruction MA-95-59 notes that orthodontic coverage is limited to dento-facial services and excludes impacted, crowding and crossbite cases. Cleft palate and severe malocclusion may be covered. Documentation shows crowding 1-2 mm of lower and upper teeth. Class II with midline shift means front upper and bottom don't match up which is due to the crowding. Information shows several baby teeth left. Crowding is predominant issue which is not covered under the program. Severe malocclusion would entail difficulties in chewing or biting- not cosmetic.

(5) _____ testified that baby teeth are now all out. Doesn't consider fixing crooked teeth as cosmetic.

(6) Exhibit 1, Request for Prior Authorization for Comprehensive Orthodontic Treatment dated 7/9/04: Provides a diagnosis of- Class II with midline shift. Recommends- Complete comprehensive orthodontics to level, align and rotate unto Class I occlusion. Signed 7/9/04, Dr [REDACTED]

VIII. CONCLUSIONS OF LAW:

(1) Medicaid Program Instruction, MA-93-57:

Space maintainers and orthodontic appliances are covered for children only, and only on prior approval. Request for approval must be accompanied by radiographs.

(2) Medicaid Program Instruction, MA-95-59:

As a reminder to providers, we wish to reiterate the following coverage limitations:

Cosmetic services will not be covered

There is no orthodontic coverage for individuals age 21 and over

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 with supporting documentation:

Cleft palate and other skeletal problems

Severe malocclusion associated with dento-facial deformity

IX. DECISION:

Policy provides that Medicaid orthodontic coverage is limited to dento-facial orthopedic services determined to be medically necessary. This excludes impacted teeth, crowding, and cross-bite cases. Cleft palate and other skeletal problems and severe malocclusion associated with dento-facial deformity will be considered for coverage with supporting documentation.

Evidence offered fails to demonstrate that the claimant's recommended orthodontic treatment is a matter of medical necessity. There was a lack of evidence to establish the existence of severe malocclusion, skeletal problems or dento-facial deformity.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying Medicaid coverage for comprehensive orthodontic treatment.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29