



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
PO Box 6165
407 Main St
Wheeling, WV 26003

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 5, 2007

_____ for _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 1, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny coverage of orthodontic services for your son.

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.

Eligibility for Medicaid Program services is determined based on current regulations. One of these regulations reveals that orthodontic services are covered for medically necessary procedures. Medically necessary orthodontic coverage will be limited to dento-facial anomalies. This excludes impacted teeth, crowding and cross bite cases. Situations will be considered for coverage include severed malocclusion associated with dento-facial deformity (e.g., a patient with a full cusp Class II malocclusion with a demonstrable impinging overbite into the palate).

Information submitted at your hearing fails to demonstrate that orthodontic services for your son are medically necessary.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for Medicaid to cover orthodontic services.

Sincerely,

Melissa Hastings
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Evelyn Whidby, BMS

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

_____,
Claimant,

v.

Action Number: 07-BOR-1056

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on June 1, 2007 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 was convened on June 1, 2007 on a timely appeal filed April 9, 2007.

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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 for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

_____ – Claimant's Mother via telephone
Dr. Chris _____ - Dental Consultant, Bureau for Medical Services via telephone
Cindy Knighten RN - Bureau for Medical Services Department Representative via telephone
JoAnn Ranson RN – Bureau of Medical Services (observing)
Mary Beth Hamilton RN – Bureau of Medical Services (observing)
Miranda Walker RN – Bureau of Medical Services (observing)

Presiding at the hearing was Melissa Hastings, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in its action to deny the Claimant's request for Medicaid to cover orthodontic services.

V. APPLICABLE POLICY:

Dental Manual, Chapter 500, Section 524, Prior Authorization for Orthodontic Services

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Dental Manual, Chapter 500, Section 524, Prior Authorization for Orthodontic Services (2 pages)
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment dated 11/28/06 signed by Dr. [REDACTED]
- D-3 Information required for Assessing Handicapping Malocclusion undated.
- D-4 Notice of Denial for Dental Services dated 12/08/06 sent to _____
- D-5 Notice of Denial for Dental Services dated 12/08/06 sent to [REDACTED], DDS

VII. FINDINGS OF FACT:

- 1) Representatives for the Claimant, who is 9 years old, requested that Medicaid authorize payment for comprehensive orthodontic treatment. A Request for Prior Authorization (D1) was submitted to West Virginia Medical Institute (WVMI) on or about November 28, 2006.

- 2) On December 8, 2006 the Department, through WVMi, sent a Notice of Denial for Dental Services to the Claimant (D4) and to [REDACTED], DDS (D5). This notice states, in part:

A request for prior authorization was submitted for dental services. Based on the medical information provided, the request has been denied.

Reason for Denial: Documentation provided does not indicate medical necessity- specifically: overbite and overjet are less than the requirements.

- 3) The Dental Consultant reviewed reports (D1 and D2) from Dr. [REDACTED] and testified that the Claimant's malocclusion was diagnosed as a class 1 which is considered normal. In addition, the report showed no palatal impingement involved with the child's overbite. The Dental Consultant noted that the Claimant still has 12 baby teeth and does not currently have a severe malocclusion associated with a dento-facial deformity. Testimony from the Dental Consultant confirmed that the x-rays provided by the Claimant's Orthodontist show that the Claimant's front two lower permanent teeth are missing. Once the baby teeth fall out there will be no permanent teeth to replace them. The Dental Consultant's testimony indicates that braces will not correct the issue of the space that will be present when the baby teeth fall out. A partial denture will be required to fill this gap.
- 4) Testimony from the Claimant's mother indicates that the Claimant's teeth are crooked and that the front two bottom permanent teeth are missing. Based on her testimony the Claimant's Orthodontist recommended braces as a means to extend the length of time that the baby teeth would remain in the child's mouth as well as a means to correct the crooked teeth. She indicated that the Orthodontist felt that the braces would be done in a two step approach utilizing the two baby teeth while they were there to straighten the other teeth. She did confirm however that the two baby teeth in question are currently loose.
- 5) Dental Manual, Chapter 500, Section 524, Prior Authorization for Orthodontic Services, provides 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 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:

- Member with syndromes or craniofacial anomalies such as cleft palate, Alperst Syndrome or craniofacial dysplasia.
- Severe malocclusion associated with dento-facial deformity (e.g., a patient with a full cusp Class II malocclusion with a demonstrable impinging overbite into the palate).

VIII. CONCLUSIONS OF LAW:

- 1) Medicaid policy provides that medically necessary orthodontic coverage is limited to services for dento-facial anomalies. This excludes impacted teeth, crowding and cross bite cases. Only cleft palate and other skeletal problems, as well as severe malocclusions (Class 2) associated with dento-facial deformity, are considered medically necessary.
- 2) Evidence submitted at the hearing fails to demonstrate that the Claimant meets the medically necessary criteria for the Medicaid Program to cover orthodontic treatment. While it is clear that the Claimant will at some point require dental intervention for the missing permanent teeth, orthodontic services at this time are not warranted.
- 3) The Department acted correctly in denying the Claimant's request for Medicaid payment of orthodontic services.

IX. DECISION:

After reviewing the applicable policy and regulations, it is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the Claimant's request for Medicaid to pay for orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of June 2007.

**Melissa Hastings
State Hearing Officer**