



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 7, 2007

\_\_\_\_\_ for \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. [REDACTED]

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 daughter.

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 includes 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 daughter 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-1057**

**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 Taylor - 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 [REDACTED] -
- 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 10 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 with minor crowding. In addition, the report showed the Claimant's overbite was 50%. Program regulations require 100% overbite. The Dental Consultant noted that the Claimant has only two baby teeth left but that all of the permanent teeth are not fully erupted so the issue of overcrowding and overbite are not totally resolved and could be subject to review at a later date.
- 4) Testimony from the Claimant's mother indicates that the Claimant's teeth are crooked causing her to have abscesses in the cheek area. Child was treated by a dentist and since that time Claimant's mother indicates they have been handling any further problems at home. Claimant's mother also indicates that child does not chew on the left side due to pain from teeth growing inward. Testimony indicates that it has been 7 months since the child was seen by orthodontist and the teeth have come in and are more crowded than when she was seen by the orthodontist.
- 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. A class II malocclusion with an impinging overbite into the palate is required. Medical

reports from Claimant's orthodontist and testimony from the agency's Dental Consultant both confirm that the Claimant's malocclusion is a class I and the overbite is not impinging into the palate.

- 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 7th Day of June 2007.**

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**Melissa Hastings**  
**State Hearing Officer**