



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

August 9, 2007

_____ for _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 3, 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-1331

**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 August 3, 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 August 3, 2007 on a timely appeal filed May 14, 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

Dr. Chris Taylor - Dental Consultant, Bureau for Medical Services

Mary Beth Hamilton - RN, Bureau of Medical Services

All parties appeared telephonically

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 3/12/07 signed by [REDACTED] D.M.D., M.S.
- D-3 Information required for Assessing Handicapping Malocclusion undated.
- D-4 Notice of Denial for Dental Services dated 03/23/2007 sent to [REDACTED]
- D-5 Notice of Denial for Dental Services dated 03/23/2007 sent to [REDACTED] DDS

VII. FINDINGS OF FACT:

- 1) Representatives for the Claimant, who was 14 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 March 12, 2007.
- 2) On March 23, 2007 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 (D2 and D3), photos and X rays from Dr. Shammaa and indicated that he concurred with Dr. [REDACTED] diagnosis of the Claimant. An overjet of 3mm and an overbite of 90% were noted on the information required for assessing handicapping malocclusion (D3). There was no evidence of palatal impingement shown within the medical reports, photos or Xrays based on testimony of the Dental Consultant. The Dental Consultant's testimony indicates that the department requires an overjet of at least 7mm and an overbite of 100% with a palatal impingement for approval for orthodontic services.
- 4) Testimony from the Claimant's mother indicates that the Claimant has a very bad overbite and the orthodontist advised that Claimant may have to have jaw surgery in the future if the overbite is not corrected.
- 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 II but 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 9th Day of August 2007.

Melissa Hastings
State Hearing Officer