



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 31, 2007

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 23, 2005. 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 Hearings 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 the 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 orthopedic services. This excludes impacted teeth, crowding, and cross bite cases.

The information which was 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,

Thomas E. Arnett
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-1380

**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 July 31, 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 July 27, 2007 on a timely appeal filed April 13, 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 / representative
Mary Beth Hamilton, RN, BMS
W. Christopher Taylor, D.D.S, Orthodontic Consultant for BMS

Presiding at the Hearing was Thomas E. Arnett, 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:

WV Medicaid Provider Manual, Chapter 500 (Covered Services, Limitations and Exclusions), Volume 5 (Dental Services), Section 524 (Prior Authorization Orthodontic Services)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit A	Dental Manual, Chapter 500, Section 524 Prior Authorization Orthodontic Services
Exhibit B	Information received from [REDACTED] DDS (Received March 25, 2007)
Exhibit C	Notice of Denial for Dental Services dated April 2, 2007

VII. FINDINGS OF FACT:

- 1) On March 26, 2007, West Virginia Medical Institute (WVMI) received a Request for Prior Authorization for Comprehensive Orthodontic Treatment (Exhibit B) from Dr. [REDACTED] DDS, on behalf of the Claimant.
- 2) On or about April 2, 2007, the Claimant was notified via a Notice of Denial for Dental Services (Exhibit C) that her request for Medicaid payment of orthodontic (dental) services was denied. This notice states, in pertinent 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: Orthodontia – Documentation provided does not indicate medical necessity – specifically:

Overbite and overjet are less than the requirements

- 3) Dr. Taylor testified that he received and reviewed x-rays, a written report, photographs, a set of dental models and the bite to show how the dental models were biting together. He noted that the orthodontic program is a limited program that does not address issues like crowding or excessive spacing between teeth. This program is not designed to help address aesthetic situations, but to address a handicapping situation that requires medical intervention. Dr. Taylor cited Exhibit B and explained that the “Skeletal C1” means the bones are in the correct location and the Class II Division II indicates the front teeth are slightly forward. In order to meet the criteria, the individual must meet a Full Cusp Class II (molar would be one whole tooth forward of where it is supposed to be). The Claimant’s overbite is 3mm (within the normal range) and the Over Jet is right at touching which is the desired location.

Two of the Claimant’s eye (or canine) teeth were just starting to come in and this may help with the crowding, and the two front smaller teeth need dental work to build them up. and this is a dental need, not orthodontic.

- 4) The Claimant’s representative testified that her daughter’s two eye teeth already came in and there is still space between her teeth. No new or additional medical documentation was submitted.
- 5) The WV Medicaid Provider Manual, Chapter 500 (Covered Services, Limitations and Exclusions), Volume 5 (Dental Services), Section 524 (Prior Authorization Orthodontic Services) states:

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. However, because a member meets criteria submitted for consideration, does not mean that coverage is automatic. All requests for treatment are subject to prior approval review by the Bureau’s contracting agency. Treatment is routinely accomplished through fixed appliance therapy and maintenance visits.

NOTE: Orthognathic surgical procedures associated with orthodontic treatment will be covered even if the member exceeds 21 years of age if the needed surgery is documented in the original orthodontic request and is requested before the member becomes 21 years of age.

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 orthodontic services. This excludes impacted teeth, crowding, and cross-bite cases. Only cleft palate and other skeletal problems, as well as severe malocclusions associated with dento-facial deformity, are considered medically necessary.
- 2) The evidence submitted at, and subsequent to, the hearing reveals that the Claimant's primary orthodontic needs are related to crowding and cross-bite. The evidence fails to demonstrate that the Claimant meets the medically necessary criteria for the Medicaid Program to cover orthodontic treatment.

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 your 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 31st Day of July, 2007.

**Thomas E. Arnett
State Hearing Officer**