



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 8, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 5, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage of orthodontic services.

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 states that orthodontic services are covered for medically necessary procedures. Medically necessary orthodontic coverage will be limited to dento-facial anomalies or severe malocclusion. This excludes impacted teeth, crowding and cross bite cases.

Information submitted at the hearing fails to demonstrate that your requested orthodontic services 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 coverage of orthodontic services.

Sincerely,

Pamela L. Hinzman
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: 08-BOR-1361

**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 September 8, 2008 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 September 5, 2008 on a timely appeal filed April 2, 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

_____, Claimant's mother

_____, Claimant's brother (observing)

Dr. Chris Taylor, Dental Consultant, Bureau for Medical Services (participated telephonically)

Miranda Walker, RN, Bureau for Medical Services (participated telephonically)

Presiding at the hearing was Pamela L. Hinzman, 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 coverage of 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-A Dental Manual, Chapter 500, Section 524, Prior Authorization for Orthodontic Services

D-B Information from Dr. [REDACTED]

D-C Notices of Denial from West Virginia Medical Institute

VII. FINDINGS OF FACT:

1) Dr. [REDACTED] requested that Medicaid authorize payment for comprehensive orthodontic treatment for the Claimant, who was 18 years old at the time the request was submitted. Dr. [REDACTED] submitted a Request for Prior Authorization (D-B) to West Virginia Medical Institute (WVMI) on or about March 10, 2008.

2) On March 17, 2008, the Department, through WVMI, sent Notices of Denial for Dental Services (D-C) to both the Claimant and Dr. [REDACTED]. These notices state, 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: Orthodontia- Documentation provided does not indicate medical necessity- specifically: Overbite and overjet are less than requirements [*sic*].

3) The Dental Consultant reviewed reports from Dr. [REDACTED] (D-B), testifying that the Claimant's over jet measures at three (3) millimeters and her over bite is 50 percent. The Claimant's diagnosis is "Class I, crossbite posterior left, missing upper right first molar,

moderate crowding.” Based on this information, the Dental Consultant testified that the Claimant does not meet guidelines for medically necessary orthodontic services. He testified that the over jet must measure at least seven (7) millimeters and the over bite must be impinging on the palate in order for orthodontic services to be considered medically necessary.

- 5) The Claimant testified that her bottom teeth are cracking, her teeth ache and her wisdom teeth are causing her gums to bleed. Dr. Taylor testified that the models/photographs he reviewed did not reveal cracking in the Claimant’s lower teeth. He indicated that the Claimant’s teeth problems are dental concerns as opposed to orthodontic needs.
- 6) Dental Manual, Chapter 500, Section 524, Prior Authorization for Orthodontic Services (D-A) 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 dyplasia.
- 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 associated with dento-facial deformity, are considered medically necessary.

- 2) Evidence submitted at the hearing fails to demonstrate that the Claimant meets the medical necessity criteria for the Medicaid Program to cover orthodontic treatment.
- 3) The Department acted correctly in denying the Claimant's request for Medicaid payment of orthodontic services.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the Claimant's request for Medicaid payment of orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of September, 2008.

**Pamela L. Hinzman
State Hearing Officer**