



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 1736  
Romney, WV 26757  
August 26, 2008

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 1, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage for 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.

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. Medically necessary orthodontic coverage is limited to services for dento-facial anomalies. This excludes impacted teeth, crowding, and cross bites. (West Virginia Provider Manual, Chapter 500, Volume 5, §524)

Information submitted at your hearing revealed that neither the degree of overbite nor the condition of rotation is significant enough to meet the criteria of medical necessity for orthodontic coverage under the Department's Medicaid Program.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the June 2008 request for comprehensive orthodontic treatment.

Sincerely,

Sharon K. Yoho  
State Hearing Examiner  
Member, State Board of Review

cc: Chairman, Board of Review  
Evelyn Whidby, Bureau for Medical Services

## **WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES**

\_\_\_\_\_ by \_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number 08-BOR-1621**

**West Virginia Department of Health & Human Resources,  
Respondent.**

### **SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

#### **I. INTRODUCTION:**

This is a report of the State Hearing Examiner resulting from a telephonic fair hearing concluded on August 26, 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 convened on August 1, 2008 on a timely appeal filed June 24, 2008. All persons giving testimony were placed under oath.

#### **II. PROGRAM PURPOSE:**

The program entitled Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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 of Medical Services is responsible for the development of regulations to implement Federal and State requirements for the program.

#### **III. PARTICIPANTS:**

All Participated by phone

Claimant's witnesses:

\_\_\_\_\_, claimant's mother

Department's witnesses:

Miranda Walker, Bureau of Medical Services (BMS)

Dr. Chris Taylor, Orthodontic Consultant, BMS

Presiding at the hearing was Sharon K. Yoho, State Hearing Examiner and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department was correct in denying Orthodontic coverage through the Medicaid program.

**V. APPLICABLE POLICY:**

West Virginia Medicaid Manual, Chapter 500, Volume 5 §524  
Medicaid Program Instruction MA-93-57 dated November 8, 1993  
Medicaid Program Instruction MA-95-59 dated November 15, 1995

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

D-1 WV Medicaid Manual, Chapter §524  
D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment dated June 5, 2008  
D-3 Notice of denial addressed to claimant dated June 13, 2008  
D-4 Notice of denial addressed to Dentist dated June 13, 2008

**VII. FINDINGS OF FACT:**

- 1) The claimant's dentist submitted a request on June 5, 2008 for Prior Authorization for Comprehensive Orthodontic Treatment, (Exhibit D-2).
- 2) The request included models, X-Rays, Photos, and a written report. The documents identified an overjet of 6mm and an overbite of 9%. The request indicated crowding and the need for rotation of the upper Canine teeth #11 and #6. No severe malocclusion with dento-facial deformity was noted and no class II malocclusion with impinging overbite into the palate was reported.
- 3) The Department's contracted Orthodontist reviewed documents received by the Department and determined that the degree of overjet and overbite did not meet the criteria for approval. The request did not include documentation which would support a medical necessity for Orthodontic treatment.
- 4) Testimony from the parent revealed that the child's baby teeth did not come out at the appropriate age and had to later be removed by an Oral Surgeon. She indicated that even though the Dentist who submitted the request believes orthodontic treatment is needed for upper and lower, she would be satisfied if the Department would approve coverage for just the upper teeth.

- 5) Medicaid Program Policy MA-95-59 holds that medically necessary orthodontic coverage will be limited to dento-facial orthopedic services. This excludes impacted teeth, crowding, and cross bite cases. The following will be considered for coverage supporting documentation:
- Cleft palate and other skeletal problems
  - Severe malocclusion associated with dento-facial deformity
- 6) Medicaid Program Policy MA-93-57 holds that the program is to look at medical service coverage in terms of medically necessary and appropriate care delivered in a cost effective manner. It is within the context of these realities that the Dental Consultant, to the Office of Medical Services, will be reviewing dental care plans and prior approval requests and in light of these considerations will deny treatment plans which call for expensive procedures and/or dental appliances, which in his judgment are not necessary to the long term well being of the patient.
- 7) Medicaid Policy §524 states: 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 Program policy holds that medically necessary orthodontic coverage will be covered. Evidence and testimony did not support any medical necessity for the service requested.
- (2) Medicaid coverage specifically excludes impacted teeth, crowding, and cross-bite cases. Crowding and overbite are not covered conditions under the Medicaid Program. There was no evidence to support that there was impinging overbite present or that the condition was adversely affecting her nutritionally.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the determination of the Department in denying Medicaid coverage for comprehensive orthodontic treatment. Evidence presented fails to support a finding that the claimant's condition meets the guidelines for Medicaid covered orthodontic treatment.

**X. RIGHT OF APPEAL:**

See Attachment.

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 26th Day of August 2008.**

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**Sharon K. Yoho  
State Hearing Examiner**