



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 15, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 12, 2008. Your hearing request was based on the Department of Health and Human Resources' to deny prior authorization for Medicaid payment of orthodontic services for _____.

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 is based on current policy and regulations. Some of these regulations state as follows: 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 (Dental Manual § 524).

The information submitted at your hearing failed to demonstrate the medical necessity of orthodontic services for _____.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to deny prior authorization for orthodontic services for _____.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Bureau of Medical Services

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____,

Claimant,

v.

Action Number: 08-BOR-2253

**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 December 12, 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 December 12, 2008 on a timely appeal, filed October 6, 2008.

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

Stacey Hanshaw, Bureau of Medical Services
Dr. Chris Taylor, Orthodontic Consultant, Bureau of Medical Services

All participants testified by phone.

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether or not the Department correctly denied Claimant prior authorization for orthodontic services.

V. APPLICABLE POLICY:

Dental Manual § 505.8

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit A Dental Manual § 505.8
Exhibit B Authorization Request for Orthodontic Treatment dated July 29, 2008
Exhibit C Denial Notification Letters to Claimant and Dr. [REDACTED] dated September 29, 2008

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for prior authorization for orthodontic services for Claimant was submitted to the West Virginia Medical Institute (WVMI) for approval by Dr. [REDACTED] (Exhibit B). Claimant's diagnosis as indicated on the form was a Class III Malocclusion, missing lower lateral incisors, excessive crowding and spacing, and a deep bite.
- 2) A denial notification letter dated September 29, 2008 was sent to Claimant and Dr. [REDACTED] which reads in part (Exhibit C):

A request for prior authorization was submitted for dental services. Based on the medical information provided, the request has been denied. Orthodontia – Documentation provided does not indicate medical necessity – specifically: Overbite and Overjet are less than requirements.

- 3) Dr. Chris Taylor, orthodontic consultant for WVMI, testified to the reasons for the denial of orthodontic services based on the medical documentation provided with the authorization form. Claimant has a Class III Malocclusion, not a Class II as required by policy. His overjet is 2-3 millimeters and his overbite is 60%. Policy requires the overjet to be at least 7 millimeters and the overbite must be 100% or more in order to be considered as a dento-facial deformity. Crowding is specifically excluded by policy as meeting the requirements for medical necessity.
- 4) Claimant's mother, _____, testified that when Claimant was one (1) year old, he had six (6) upper teeth removed. His dentist advised her that Claimant would require follow-up treatment. Claimant's upper teeth didn't come in until he was nine (9) years old, causing him to be self-conscious when he smiled. Because her son was never given spacers, there is no room for his eye teeth to come in and they are now overlapping his front teeth. He has two (2) bottom teeth that are missing. _____ felt like since the need for this orthodontic treatment has always been known, her son should be approved for it.
- 5) Dental Manual § 505.8 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.

Medically necessary orthodontic coverage is limited to services for dento-facial anomalies. 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. full cusp Class II malocclusion with demonstrable impinging overbite into the palate).

VIII. CONCLUSIONS OF LAW:

- 1) The medical evidence and testimony presented failed to show a severe dento-facial deformity as required by policy. Claimant does not have a Class II Malocclusion and his overbite and overjet are less than requirements.
- 2) Claimant does not meet the criteria for the medical necessity of orthodontic services.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny Claimant prior authorization 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 15th Day of December, 2008.

**Kristi Logan
State Hearing Officer**