



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

April 16, 2008

Dear Mrs. _____:

Please find enclosed herewith a copy of the decision/findings of fact and conclusions of law regarding your son's fair hearing held on January 25, 2008. The basis for your hearing request was the Department of Health and Human Resources' decision denying the request for authorization of certain orthodontic services, particularly full appliance and retainer 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, regulations and policies established by the Department of Health and Human Resources. These same laws, regulations, and policies are required to be followed and applied in all cases to assure that all persons are treated equally.

Eligibility for Medicaid services is based upon current policy and regulations. The regulations require that all orthodontic services require prior authorization; and that medical appropriateness must be met for approval of the services requested. Particularly it must be demonstrated that the person's dentofacial structure is such that he/she suffers a disability or that his/her physical development is impaired. (WVDHHR Hospital Manual Chapter 500, Section 524 Prior Authorization-Orthodontic Services).

The information/evidence presented at the hearing revealed that Preauthorization Request did not meet the eligibility criteria for comprehensive orthodontic treatment and could not be authorized. Your son's condition or dentofacial structure at the time of submission was not such or to a severity that he suffers a disability or that his physical development is impaired. The corrective services were not medically necessary.

Thus, it is the decision of the State Hearing Officer to uphold the action of the Department to deny Medicaid coverage for comprehensive orthodontic treatment at this time.

Very truly yours,

Mary B. Sansalone
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Miranda Walker, BMS
Chris Taylor, WVMi

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW

Claimant,

v.

Action Number: 07-BOR-2394

West Virginia Department of
Health and Human Resources,

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION/PROCEDURAL HISTORY:

This is an appeal by the claimant from the Department of Health and Human Resources decision denying claimant's request for authorization of certain orthodontic treatment, particularly full appliances and a retainer. Claimant's dentist/orthodontist, [REDACTED] DDS, completed and submitted a "Request for Prior Authorization for Comprehensive Orthodontic Treatment" on September 10, 2007, requesting permission that the orthodontic treatment/services be covered as a medical necessity for the claimant. Said request was received by the reviewing agency on September 13, 2007. The dentist/orthodontist submitted the appropriate documentation required for purposes of assessing the claimant's needs and making a determination whether said services should be covered, including but not limited to molds, photographs, and a written report. The diagnosis stated that claimant suffered from a Skeletal Class II, Dental Class II dentofacial structure with a severe overjet and mandibular maxillary spacing; however, the objective documentation did not demonstrate that the requested corrective measures were medically necessary under the Medicaid criteria set out for dental services. Accordingly, the authorization was denied based upon the foregoing. Claimant and Claimant's Requesting physician were duly informed of said decision in writing on September 14, 2007, as evidenced by the Notice of Decision issued by West Virginia Medical Institute, copies of which are collectively marked Department Exhibit No. C (Part I and Part II), and made a part of the evidence. After denial, no additional information or supporting documentation was submitted for reconsideration by [REDACTED] DDS. Claimant filed an appeal from the denial on or about September 24, 2007. A telephonic hearing duly noticed, was held on Friday, January 25, 2008, at 10:00 a.m., at the Marion County Department of Health and Human Services, Fairmont, West Virginia, before the undersigned, for purpose of the taking of evidence and reviewing the September 14, 2007 determination or denial of benefits. The 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.

II. PROGRAM PURPOSE:

The Medicaid program was established in 1965 under Title XIX of the Social Security. The Program is set up cooperatively between the federal and state governments to offer medical assistance to a certain class of persons. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with the federal regulations establishing the same. The Bureau for Medical Services is responsible for development of the Medicaid policies, regulations and guidelines necessary to implement and operate the program, including determination of eligibility, covered services, and payment. The Department of Health and Human Resources processes the claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

The following parties and/or witnesses appeared telephonically on behalf of claimant at the hearing held on January 25, 2008, commencing at 10:00 a.m., and maintained their telephonic appearance throughout the entire proceeding:

1. _____. - Claimant's mother.

The following parties and/or witnesses telephonically appeared on behalf of the West Virginia Department of Health and Human Resources on the aforementioned date and time and maintained their telephonic appearance throughout the entire proceeding:

1. Miranda Walker RN, Bureau for Medical Services (BMS).
2. Chris Taylor, DDS, Dental Consultant, Bureau for Medical Services (BMS).

All witnesses, including the parties, were sworn prior to the commencement of the hearing so that any statements or comments made during the course of the proceeding were made under oath and could be considered in rendering a decision in this matter.

IV. ISSUE:

Whether the Department of Health and Human Services, the administrator of the Medicaid program in West Virginia was correct in denying a request for approval of certain orthodontic services for claimant, particularly, full appliances and a retainer.

It is the contention of _____, claimant's mother and legal guardian, that the appearance of claimant's teeth are such that it appears that he would meet the criteria for the requested services to be covered as described. Also, Mrs. _____ stated claimant's emotional well being is being affected as a result of his appearance.

V. APPLICABLE POLICY: West Virginia Department of Health and Human Resource Manual Chapter 500, Section 524

VI. DOCUMENTARY EVIDENCE ADMITTED:

Department Exhibits:

Exhibit A WVDHHR Dental Manual Chapter 500, Section 524.

Exhibit B Request for Prior Authorization for Comprehensive Orthodontic Treatment dated 09/10/07

Exhibit C

(**Part I**) Notice of Denial for Dental Services dated September 14, 2007 sent to Claimant _____

(**Part II**) Notice of Denial dated September 14, 2007 sent to [REDACTED] DDS.

Claimant Exhibits: NONE

VII. FINDINGS OF FACT:

1. Claimant is a recipient under the West Virginia Medical Assistance Program established under Title XIX of the Social Security Act of 1965 and was a recipient or member of said program on September 10, 2007, the date of submission of the Request for Prior Authorization for Comprehensive Orthodontic Treatment, requesting authorization for full orthodontic appliances and retainer.

2. Medicaid, the West Virginia medical assistance program permits or covers orthodontic services on a limited basis. Particularly, coverage for said services is based upon medical necessity.

3. Medicaid requires that all orthodontic services require prior authorization.

4. Prior authorization must be obtained from West Virginia Medical Institute (WVMI), the agency appointed to review the prior authorization request for and on behalf of the Bureau of Medical Services, the Medicaid Administration Agency.

5. The State of West Virginia for purposes of the provisions of its Medicaid program on orthodontic treatment utilizes a dental consultant to determine medical appropriateness or necessity of the requested services.

6. Claimant's dentist/orthodontist [REDACTED] DDS, submitted a "Request for Prior Authorization for Comprehensive Orthodontic Treatment" (Department Exhibit B), to the West Virginia Medical Institute (WVMI) on or about September 10, 2007, requesting pre-authorization for full orthodontic appliances and retainer to correct claimant's dentofacial structure.

7. Dr. [REDACTED] DDS, submitted the appropriate or necessary documentation for purposes of determining if the patient was medically qualified to receive coverage of the orthodontic services requested under the Medicaid Program. The documentation submitted included but was not limited to models, impressions, x-rays, photographs, and a written report.

8. The patient's dentofacial structure is classified as a Skeletal II, Dental Class II with severe overjet and mandibular maxillary spacing.

9. Severe overjet, overbite and spacing are the reasons stated or identified on Dr. [REDACTED] report/request; however, the objective documentation, models and pictures do not reflect that said overjet, overbite and spacing is of such a nature that said corrective procedures are medical necessitated or would impair the claimant's physical development..

10. A Class I alignment means that the upper and lower teeth are in correct positioning or within normal limits with regard to how the upper and lower molars match. When the upper and lower teeth are not in correct position or alignment or outside normal limits, the patient's alignment is identified as a Class II alignment; and within said Class II there are varying degrees or severity of alignment. See testimony of Dr. Chris Taylor.

11. Dr. Chris Taylor acknowledges that claimant _____ does suffer from a Class II malocclusion or misalignment, but the severity or degree of his malocclusion does not at this time meet the criteria to be classified as a Full-Cusp Class II, which is the necessary severity required under the Medicaid guidelines.

12. Deep overbite or excessive overbite must be at near 100% in order for correction to be deemed medically necessary.

13. The key factor in assessing the overbite is impingement of the lower teeth into palate.

14. Impingement of the lower teeth into the palate can cause trauma and damage to the gum and palate area requiring medical attention and impairing physical development.

15. The model, photographs, x-rays impressions and report submitted do not indicate that impingement has or is occurring.

16. Spacing is not considered a functional problem or issue, but usually is corrected for aesthetic purposes only.

17. The information submitted did not demonstrate that the services requested medically qualified or were necessary. See Dr. Chris Taylor's testimony.

18. A Notice of Denial was issued on September 14, 2007, to Claimant, _____, (Department Exhibit-C, Part I), which states, in part:

Reason for Denial: Orthodontia documentation provided does not indicate medical necessity.-
Overbite and overjet are less than required.

19. A Notice of Denial was also issued on September 14, 2007, to Dr. [REDACTED] DDS, the ordering/requesting dentist/orthodontist. In addition to the information stating the reason for denial, the orthodontist's notice advised that additional documentation or information could be submitted and a request for reconsideration could be made for approval of said services.

20. No request for Reconsideration was made nor additional documentation submitted on behalf of claimant.

21. Claimant appealed the denial of benefits on or about September 24, 2007.

22. Claimant _____'s mother and legal guardian _____ did not present any clinical evidence at the hearing supporting the appeal filed on behalf of her son. Particularly, she did not present evidence to support that the decision render by the West Virginia Medical Institute on behalf of the Bureau for Medical Services denying full orthodontic treatment was erroneous under the Medicaid criteria, but merely presented a plea that her son's emotional well being is affected by the imperfections of his dental structure and that such imperfections needed correction.

23. WVDHHR Hospital Manual Chapter 500, Section 508.1 provides in pertinent part 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 service is provided bases on medical necessity. However, because a member meets criteria submitted for consideration, does not mean that coverage is automatic. All requests from treatment are subject to prior approval review by the Bureau's contracting agency. Treatment is routinely accomplishment through fixed appliance therapy and maintenance visits.

NOTE: Orthodontic 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 cranofacial dyplasia.

Severe malocclusion associated with dento-facial deformity. (e.g., a patient with a full cusp Class II malocclusion with a demostrable impinging overbite into the palate.)

VIII. CONCLUSIONS OF LAW:

1. In order to receive authorization of requested orthodontic services under Medicaid, the West Virginia medical assistance program, one's dentofacial structure must be such that the claimant suffers a disability or that her physical development is impaired as a result.(See WVDHHR Hospital Manual Chapter 500, Section 524 Prior Authorization-Orthodontic Services).

2. The information/evidence presented at the hearing revealed that _____'s dentofacial structure was not such that he suffers from a disability or that his physical development is impaired. Thus, the requested corrective measures, full orthodontic appliances and retainer, are not medically necessary and the prior authorization request was appropriately denied.

3. Claimant's request for services was appropriately denied in that it did not meet the eligibility criteria established and uniformly applied by the Medicaid program.

IX. DECISION:

After reviewing and considering the information/evidence presented at the hearing, and the applicable law, policy and regulations, I hereby find and direct that the determination of the Agency that the Request for Prior Authorization for Comprehensive Orthodontic Treatment should be denied was correct, appropriate and consistent with the established conditions of the patient/claimant. Accordingly, the decision of September 14, 2007, is upheld.

X. RIGHT OF APPEAL:

See Attachment- IG-BR-46

XI. ATTACHMENTS:

Form IG-BR-46- Claimant Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th day of April 2007.

Mary B. Sansalone
State Hearing Officer