



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

Joe Manchin, III
Governor

Martha Yeager Walker
Secretary

March 27, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 21, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage of Orthodontic Services for _____ for whom you are guardian.

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 the reported condition of overcrowding does not meet the medical necessity criteria for coverage under the Department's Medicaid Program.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the September 2007 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

_____,
Claimant,

v.

Action Number 07-BOR-2560

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 March 21, 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 March 21, 2008 on a timely appeal received October 18, 2007. 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 guardian

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 Agency 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 September 4, 2007
D-3 Notice of denial addressed to claimant dated October 8, 2007
D-4 Notice of denial addressed to Dentist dated October 8, 2007

VII. FINDINGS OF FACT:

- 1) The claimant's dentist submitted a request on September 4, 2007 for Prior Authorization for Comprehensive Orthodontic Treatment, (Exhibit D-2).
- 2) The request identified a class I bite with moderate crowding. The request documented a 3 mm overjet and a 10% overbite. Orthodontic treatment recommendations noted on the request were for Interproximal Reduction, Full-fixed appliances and Retainers. Interproximal is a procedure used to reduce the enamel to produce a narrower tooth.
- 3) The Department's contracted Orthodontist reviewed documents received by the Department and determined that the condition of crowding did not meet the criteria for approval. A Class I is the category referred to as the correct bite. There was no documentation to conclude that the overcrowding was creating a medical concern.
- 4) Testimony from the guardian revealed that the concerns were that the overcrowding would prevent proper cleaning and would result in decay and possible tooth loss.

- 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) Policy specifically identifies services for dental crowding as services not covered under Medicaid. Based on the recommended procedure of Interproximal Reduction, it is clear that the predominate concern is that of crowding. It is understood that overcrowding could result in decay and that extra precautions in cleaning should be practiced to avoid decay. This does not negate the Departments obligation to follow eligibility policy as it relates to dental crowding.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the determination of the Agency 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 27th Day of March 2008.

**Sharon K. Yoho
State Hearing Examiner**