



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 2, 2008

c/o _____

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 7, 2008. Your hearing request was based on the Department of Health and Human Resources' denial of orthodontic services.

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 orthodontic services under the Medicaid Program is based on current policy and regulations. Some of these regulations state, in pertinent part: Medically necessary orthodontic coverage is limited to services for dento-facial anomalies. **This excludes impacted teeth, crowding, and cross bites.** (emphasis added) The following situations, with supporting documentation, will be considered for coverage...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). (Bureau for Medical Services Dental Manual, Chapter 500, Section 524)

The information which was submitted at your hearing revealed that while crowding and the need for extraction could be determined, medical necessity for orthodontic services could not be established.

It is the decision of the State Hearings Officer to **uphold** the action of the Department in denying orthodontic services.

Sincerely,

Todd Thornton
State Hearings Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Evelyn Whidby, Department Representative

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

Claimant,

v.

Action Number: 07-BOR-2668

**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 June 2, 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 7, 2008 on a timely appeal, filed November 6, 2007.

II. PROGRAM PURPOSE:

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
Miranda Walker, RN, Bureau for Medical Services
Dr. Chris Taylor, Orthodontic Consultant, Bureau for Medical Services

Presiding at the Hearing was Todd Thornton, 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 was correct to deny orthodontic services to the Claimant.

V. APPLICABLE POLICY:

Bureau for Medical Services Dental Manual, Chapter 500, Section 524

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Bureau for Medical Services Dental Manual, Chapter 500, Section 524
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment from [REDACTED] DDS, dated September 10, 2007
- D-3 Notice of Denial for Dental Services dated October 8, 2007

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On September 10, 2007, the Claimant's orthodontist submitted a prior authorization request to WVMJ (Exhibit D-2) for orthodontic services for the Claimant. The Department denied this request in writing on October 8, 2007 (Exhibit D-3). The reason for denial was provided as follows:

"Orthodontia – Documentation provided does not indicate medical necessity – specifically:

Overbite and overjet are less than requirements."

- 2) In the information accompanying the prior authorization request (Exhibit D-2), the Claimant's orthodontist noted an overjet of 3mm, an overbite of 2mm, a Class I molar relationship on the right, a Class II molar relationship on the left, a Class II skeletal relationship, an impacted tooth, crowding, and cross bite for two anterior teeth.
- 3) The Orthodontic Consultant for the Department agreed with the Claimant's orthodontist regarding the classifications of the molar relationships, the overjet and overbite measurements, and the diagnosis of severe crowding for the Claimant. However, his testimony revealed that the overbite and overjet are within normal ranges, and that the crowding alone is insufficient to meet the requirements of medical necessity for the program.

- 4) The Claimant's mother testified that the crowding of the Claimant's teeth is getting progressively worse.
- 5) The Orthodontic Consultant for the Department reiterated that he does not disagree with the diagnosis of crowding, or the recommendation of extraction to resolve the crowding issue for the Claimant. However, he stated that this is a separate issue from orthodontic services. He testified that the intent of the program is to address medical concerns, not aesthetic concerns. He also noted that the Claimant may resubmit a request for services in the future.

VIII. CONCLUSIONS OF LAW:

- 1) Bureau for Medical Services Dental Manual, Chapter 500, Section 524 states, in pertinent part:

“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.** (emphasis added) 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).”

- 2) The Claimant has a diagnosis of severe crowding along with cross bite for two teeth and an impacted tooth. These conditions are specifically excluded from Medicaid coverage for orthodontic services.

IX. DECISION:

It is the decision of the State Hearings Officer to **uphold** the action of the Department to deny orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of June, 2008.

Todd Thornton
State Hearings Officer