



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 31, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 30, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for coverage of orthodontic services for your daughter, _____-.

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. 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. (Chapter 500, Dental Services Manual Volume 5, Section 524, Prior Authorization – Orthodontic Services).

The information submitted at your hearing revealed: Your daughter did not meet the West Virginia Medicaid Program criterion for orthodontic services.

It is the decision of this State Hearing Officer to **uphold** the **action** of the Department to **deny** prior authorization.

Sincerely,

Cheryl McKinney (Henson)
State Hearing Officer
Member, State Board of Review

cc: Chairman, State Board of Review
Evelyn Whidby, BMS

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

_____,
Claimant,

v.

Action Number: 07-BOR-2256

**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 November 30, 2007 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 November 30, 2007, on a timely appeal filed September 5, 2007.

It should be noted that the Claimant is currently receiving Medicaid Benefits. She was not represented by Counsel, and a pre-hearing conference was not held between the parties prior to the hearing.

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

Miranda Walker, RN - Bureau for Medical Services (BMS), by telephone

Chris Taylor, DDS – Dental Consultant for the Bureau for Medical Services, by telephone

Presiding at the Hearing was Cheryl McKinney (Henson), State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: Did _____ meet the eligibility criteria for orthodontic services?

V. APPLICABLE POLICY:

Chapter 500, Dental Services Manual Volume 5, Section 524, Prior Authorization – Orthodontic Services.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Chapter 500, Dental Services Manual Volume 5, Section 524, Prior Authorization – Orthodontic Services
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment dated 08/01/07
- D-3 Notice of Denial Determination by WVMI dated 08/16/07 issued to Provider and Claimant

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant is a thirteen year old female with a clinical diagnosis of Class II subdivision right with large midline diastema. (D-2)
- 2) A WVMI Medicaid Request for Prior Authorization for Comprehensive Orthodontic Treatment Authorization Request Form was completed by the Claimant's dentist and dated August 1, 2007 (D-2). The reasons given for the comprehensive orthodontic treatment were the same as stated in Findings of Fact #1. The Claimant was listed as having overjet of 3mm, and overbite of 50%.

- 3) Chapter 500, Dental Services Manual Volume 5, Section 524, Prior Authorization – Orthodontic Services (D-1) states in 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. 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).
- 4) The WVMI reviewed the request for dental services and submitted a Notice of Denial to the Claimant and her Dentist on August 16, 2007 (Exhibit D-3). The reasons for the denial stated in part:
- A request for prior authorization was submitted for dental services. Based on the medical information provided, the request has been denied.
- Reason for denial: Orthodontia – Documentation does not indicate medical necessity – specifically: Overbite and overjet are less than the requirements.
- 5) Testimony from the Dental Consultant revealed the overjet was classified as 3mm. Guidelines show the overjet would need to be 7mm or more. Overbite was at 50%, and guidelines indicate should show impingement. Evidence does not show impingement. Based on his experience and the programs' criteria, the Claimant did not qualify for dental services. This is considered reliable testimony.
- 6) The Claimant's mother testified the child needs the Orthodontic services. She stated she has concerns for her child's self esteem.

VIII. CONCLUSIONS OF LAW:

- 1) The policy states in 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.” “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).”
- 2) The Claimant is less than 21 years of age. The Claimant has a Class II malocclusion on the left side, however does not have a demonstrable impinging overbite.
- 3) The documentation and medical testimony do not support the fact that the Claimant’s need for dental services creates a disability or impairs her physical development.

IX. DECISION:

It is the decision of this State Hearing Officer to **uphold** the **action** of the Department to **deny** prior authorization for orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31st Day of January, 2008.

Cheryl McKinney (Henson)
State Hearing Officer