



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 21, 2008

_____ for

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 11, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid payment for 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 the Medicaid program services is determined based on current regulations. One of these regulations state that orthodontic services are covered on a limited basis for Medicaid members whose malocclusions create a disability and impairs their physical development. Medicaid coverage for orthodontic services is provided based on medical necessity and is limited to dento-facial anomalies. This excludes impacted teeth, crowding, and cross bite cases.

The information submitted at your hearing fails to demonstrate that orthodontic services for your daughter are medically necessary.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for Medicaid to cover orthodontic services.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

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

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

Claimant,

Action Number: 08-BOR-783

**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 April 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 April 11, 2008 on a timely appeal filed December 17, 2007.

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/representative
Miranda Walker, RN, BMS
W. Christopher Taylor, D.D.S, Orthodontic Consultant for BMS

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in its action to deny the Claimant's request for Medicaid to cover orthodontic services.

V. APPLICABLE POLICY:

WV Medicaid Provider Manual, Chapter 500 (Covered Services, Limitations and Exclusions), Volume 5 (Dental Services), Section 524 (Prior Authorization Orthodontic Services)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit A	Dental Manual, Chapter 500, Section 524 Prior Authorization Orthodontic Services (pages 1 & 2)
Exhibit B-1	Information received from David Sanders, DDS- (Pages 3 & 4)
Exhibit C-1	Notice of Denial for Dental Services from WVMI (pages 5 & 6) dated October 26, 2007.
Exhibit C-2	Reconsideration request received at Review Dept. on November 6, 2007 (pages 7 & 8)
Exhibit C-3	Results of Reconsideration Determination by WVMI (pages 9 & 10)

VII. FINDINGS OF FACT:

- 1) On October 16 2007, Dr. [REDACTED] D.D.S, completed a Request for Prior Authorization for Comprehensive Orthodontic Treatment form (Exhibit B) on behalf of the Claimant and submitted it to the West Virginia Medical Institute (WVMI) to determine eligibility for Medicaid payment.

- 2) On or about October 26, 2007, the Claimant and Dr. [REDACTED] were notified via a Notice of Denial for Dental Services (Exhibit C-1) that the request for Medicaid payment of orthodontic (dental) services was denied. This notice states, in pertinent 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 provided does not indicate medical necessity – specifically:

Overbite and overjet are less than the requirements.

- 3) A reconsideration request was sent to WVMI and received on November 6, 2007 (Exhibit C-2). In response to this request, WVMI responded with the Physician Notice of Preadmission Reconsideration Determination (Exhibit C-3). This notice states, in pertinent part:

WVMI received your request for reconsideration of the initial denial of authorization for the above listed patient. After due consideration of all relevant factors including documentation in the medical record and any additional information provided, WVMI upheld the initial denial.

After review of the information provided for comprehensive orthodontic treatment, codes D8080 and D8680, the reviewing consultant has affirmed the decision of the original denial for not meeting medical necessity and therefore cannot be authorized.

- 4) Dr. Taylor testified that the protocol for individuals with braces who transfer or move to the State of West Virginia and apply for Medicaid orthodontic payment requires that the individual be reviewed for eligibility based on their condition when orthodontic treatment began. If the individual would have qualified for the program when treatment began, the individual would be approved and treated. The information received from Dr. [REDACTED] (from [REDACTED]) was reviewed (x-rays, photographs, models and pictures). Medical eligibility requires that the overbite must be impinging into the palate (bottom front teeth touch or impinge the tissue behind the upper front teeth) and a Full Cusp Class II malocclusion means the molars must be approximately one tooth out of alignment (top to bottom). The photographs and models do not show either of these conditions and the amount of crowding demonstrated in the evidence would not cause a problem with the Claimant's ability to chew. Dr. Taylor indicated that while the appearance of the Claimant's teeth could be improved with orthodontic treatment, Medicaid payment of orthodontic services is limited to medically necessary treatments.
- 5) The Claimant's representative testified that crowding was causing pain and that she had a "clicking jaw" when she would bite down.

- 5) Dr. Taylor purported that crowding does not cause pain and a clicking jaw does necessarily have anything to do with the way the teeth are aligned, and if it does, it needs to be demonstrated in the medical evidence. Dr. Taylor reviewed the information submitted by Dr. [REDACTED] and noted this information shows improvement from the original exams and that is why eligibility is determined based on the individuals condition when orthodontic treatment began. The Claimant's braces have been removed since the request was received but the cost associated with removal can only be approved if it is determined the original eligibility criteria was met when orthodontic treatment began.
- 6) The WV Medicaid Provider Manual, Chapter 500 (Covered Services, Limitations and Exclusions), Volume 5 (Dental Services), Section 524 (Prior Authorization Orthodontic Services) 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. 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).

VIII. CONCLUSIONS OF LAW:

- 1) Medicaid Policy provides that orthodontic services are covered on a limited basis for Medicaid members whose malocclusions create a disability and impairs their physical development. Medicaid coverage for orthodontic services is provided based on medical necessity and is limited to dento-facial anomalies. This excludes impacted teeth, crowding, and cross bite cases. Only Medicaid eligible individuals with syndromes or craniofacial anomalies such as cleft palate, Alperst Syndrome or craniofacial dyplasia OR 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) will be considered for coverage.
- 2) The evidence fails to demonstrate that the Claimant met the medical necessity criteria required when orthodontic treatment began. Therefore, Medicaid payment of orthodontic treatment, including the removal of the Claimant's braces, does not qualify for Medicaid payment.

IX. DECISION:

After reviewing the applicable policy and regulations, it is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the Claimant's request 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 21st Day of April, 2008.

**Thomas E. Arnett
State Hearing Officer**