



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

March 26, 2008

_____ for

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 payment for Orthodontic Services.

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.

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 son 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 payment of 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

v. **Action Number: 08-BOR-795**

Respondent.

I. INTRODUCTION:

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.

_____, Claimant's mother / representative

Miranda Walker, RN, BMS

W. Christopher Taylor, D.D.S, Orthodontic Consultant for BMS

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(All parties participated telephonically)

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 payment of 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 | Information received from [REDACTED] D.D.S., (pages 3 & 4) dated September 13, 2007 |
| Exhibit C | Notice of Denial for Dental Services dated October 2, 2007 |

VII. FINDINGS OF FACT:

- 1) On or about September 13, 2007, Dr. Linda Ray, D.D.S, completed a Prior Authorization for Comprehensive Orthodontic Treatment request (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 October 2, 2007, the Claimant and Dr. Ray were notified via a Notice of Denial for Dental Services (Exhibit C) that his 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) Dr. Taylor indicated that he received and reviewed x-rays, a written report, photographs and study models to review eligibility. He indicated that the written report (Exhibit B) reveals (on page 3) the Claimant has a Class II Skeletal with a Class II Dental and page 4 indicates the over jet is 1mm and the over bite is 2mm. The over bite refers to how much the front teeth overlap the bottom teeth. Policy requires that the over bite be an impinging over bite into the pallet (the bottom teeth must touch the tissue behind the upper front teeth.) The over jet is a

front-to-back measurement that must be a Full Cusp Class II. The right side is a Class I, which is correct and the left side is slightly off (a Class III), but it is not a Full Cusp Class II, as required by policy. The crowding noted in the documentation is not a covered condition and the impacted wisdom teeth will need to be addressed by an oral surgeon, not orthodontia. Dr. Taylor noted that Medicaid payment of orthodontic services is limited to medically necessary treatment and cannot be approved for cosmetic purposes.

- 4) The Claimant's representative did not present any additional evidence in the form of testimony or documentation and indicated that her concern was the impacted teeth noted by Dr. [REDACTED] as something that will need to be addressed in the future.
- 5) 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 dysplasia 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 meets the medical necessity criteria required for Medicaid payment of orthodontic treatment.

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 26th Day of March, 2008.

**Thomas E. Arnett
State Hearing Officer**