



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Joe Manchin III
Governor

Board of Review
P.O. Box 1736
Romney, WV 26757

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

October 13, 2009

-----for -----

Dear: -----

Attached is a copy of the findings of fact and conclusions of law on your son's hearing held September 25, 2009. Your hearing request was based on the Department of Health and Human Resources' action to deny your son's coverage of Orthodontia 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 orthodontia services under the Medicaid Program is based on current policy and regulations. These regulations provide that medically necessary orthodontic coverage is limited to services for dento-facial anomalies. This excludes impacted teeth, crowding, and cross bites. Among the situations considered for coverage are severe malocclusions associated with dento-facial deformity. (Bureau for Medical Services Dental Manual, Chapter 505, Section 505.8)

The information which was submitted at your hearing revealed that the standards of severe malocclusions were not met, and medical necessity could not be established.

It is the decision of the State Hearings Officer to Uphold the action of the Department to deny orthodontia coverage.

Sincerely,

Eric L. Phillips
State Hearings Officer
Member, State Board of Review

cc: Board of Review
Lorna Harris, BMS

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

-----,

Claimant,

v.

Action Number: 09-BOR-1380

**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 October 13, 2009 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 September 25, 2009 on a timely appeal, filed June 18, 2009.

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 Representative and Mother
Virginia Evans, DHHR Specialist
Dr. Christopher Taylor, Department witness

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not was correct to deny prior authorization for orthodontia services to the Claimant.

V. APPLICABLE POLICY:

Bureau for Medical Services Dental Services Manual, Chapter 505, Section 505.8

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Bureau for Medical Services Dental Manual, Chapter 505, Section 505.8
- D-2 Request for Prior Authorization Form, Dr. [REDACTED] DDS, MS
- D-3 Notice of Denial for Dental Services

VII. FINDINGS OF FACT:

- 1) On April 1, 2009, the Claimant's orthodontist, Dr. [REDACTED] submitted a prior authorization request to West Virginia Medical Institute (WVMI), Exhibit D-2, for orthodontia services. The Department denied this request on May 22, 2009. Exhibit D-3, Notice of Denial for Dental Services documents the reason for denial as:

Orthodontia – Documentation provided does not indicate medical Necessity-specifically:

Overbite and overjet are less than the requirements.

- 2) Claimant's orthodontist documents in Exhibit D-2, that the Claimant has Class I Dental and Skeletal Relationship with moderate mandibular crowding. The Department's Orthodontic Consultant testified that a Class I Molar and Skeletal Relationship is normal and is the desired designation. The Exhibit further documents that the Claimant has an overjet of four millimeters and an overbite of six millimeters. The Orthodontic Consultant testified that the guidelines for overbite require an impinging overbite into the palate of the roof of the mouth and that the guidelines for overjet require a minimum of seven millimeters. The Orthodontic Consultant reviewed models, photos and written documentation of Claimant's teeth and jaws and determined that Claimant did not meet requirements for orthodontic treatment.
- 3) Claimant's mother testified that she fears her son will not have enough room in his mouth for his teeth that have yet to erupt. The Orthodontic Consultant testified that the moderate mandibular crowding does not constitute medical necessity.
- 4) Bureau for Medical Services Dental Manual, Chapter 505, Section 505.8 documents 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, Aplerst Syndrome or craniofacial dysplasia.

-Sever 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) In order to be eligible for orthodontia services, an individual must have an impinging overbite and an overjet over the established requirement of seven millimeters. Per documentation listed in Exhibit D-2, the Claimant did not have a malocclusion classification and the extent of Claimant's overjet did not establish medical necessity for orthodontia services. The Department was correct in its decision to deny orthodontia services.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to deny orthodontia services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of October 2009.

Eric L. Phillips
State Hearing Officer