



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

May 5, 2009

-----  
c/o -----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 13, 2009. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid payment for a crown.

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 dental services under the Medicaid Program is based on current policy and regulations. Some of these regulations state that coverage is provided based on medical necessity, and that requests for treatment are subject to prior approval review by the Bureau's contracting agency. (Bureau for Medical Services Dental Manual, Chapter 505, Section 505.8)

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

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying Medicaid payment for a crown.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Lorna Harris, Department Representative

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

-----,

**Claimant,**

**v.**

**Action Number: 08-BOR-2697**

**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 May 5, 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 March 13, 2009 on a timely appeal, filed January 6, 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 grandmother

-----, RN, Bureau for Medical Services

Dr. Robert Kreig, Dental 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. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct to deny Medicaid payment for a crown.

#### **V. APPLICABLE POLICY:**

Bureau for Medical Services Dental 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; Dental Procedure Codes
- D-2 Information received from -----, DMD
- D-3 Notice of Denial for Dental Services dated October 23, 2008

#### **VII. FINDINGS OF FACT:**

- 1) On October 7, 2008, -----, DMD, submitted a prior authorization request to WVMi (Exhibit D-2) for dental services for the Claimant. The specific procedure requested was a crown, and the procedure code was D2751. The Department denied this request in writing on October 23, 2008 (Exhibit D-3). The reason for denial was provided as follows:

Documentation provided does not indicate medical necessity – specifically:

The enclosed x-ray did not show sufficient break down to justify a crown at this time.

- 2) The Department presented a listing of dental procedures, with corresponding procedure codes. In the listings, procedure code D2751 is listed as “Crown – porcelain fused to predominantly based metal,” and is designated as a procedure requiring prior approval by the Dental Consultant for the Department.
- 3) The Dental Consultant for the Department testified that his review of the Claimant’s x-ray did not reveal sufficient break down to justify the procedure, and explained that by “break down,” he means decay, fracture, or large restoration of the tooth that would make a crown the preferred procedure. Because none of these were present, he indicated the Claimant did not meet the criteria for the procedure.

- 4) The Claimant's grandmother described the Claimant's tooth as a "peg," or a malformation of an eye tooth. The Dental Consultant for the Department explained that a malformation is not decay, and the Claimant's grandmother responded that decay should not be considered.
- 5) The Claimant's grandmother testified that the Claimant is in pain because of the shifted chewing burden caused by her malformed tooth. She opined that a crown would reduce the Claimant's pressure and pain by forming an even chewing surface.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Bureau for Medical Services Dental Manual, Chapter 505, Section 505.8 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. 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).

The Department's Dental Consultant explained that the Claimant did not meet criteria for the procedure. The Claimant's grandmother agreed, noting that the tooth in question was malformed, not decayed; however, her opinion was that the Claimant's pain could

be reduced by the procedure. This Hearing Officer cannot alter the policy criteria for dental procedures, and must defer to the expert opinion of the Dental Consultant. The Department was correct in its decision to deny Medicaid payment for the requested crown procedure.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny Medicaid payment for a crown.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of May, 2009.**

---

**Todd Thornton  
State Hearing Officer**