



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Joe Manchin III
Governor

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

October 23, 2009

-----for

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 20, 2010. 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. (WV Medicaid Policy Manual, Chapter 500, Section 505.8 Prior Authorization-Orthodontic Services).

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 to cover orthodontic services.

Sincerely,

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

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

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

-----,

Claimant,

v.

Action Number: 10-BOR-1460

**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 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 convened on August 20, 2010 on a timely appeal filed June 15, 2010.

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/mother
Virginia Evans, DHHR Specialist, BMS (Bureau for Medical Services)
Robin Brock, 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.

All parties participated via a telephonic conference call.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not 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), Section 505.8 (Prior Authorization - Orthodontic Services)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- | | |
|-----------|--|
| Exhibit A | Dental Manual, Chapter 500, Section 505.8 Prior Authorization-Orthodontic Services – Pages 1-2 |
| Exhibit B | Information received from [REDACTED] DDS – Pages 3-4 |
| Exhibit C | Notice of Denial Determination by WVMI dated May 19, 2010 – Pages 5-6 |

VII. FINDINGS OF FACT:

- 1) On May 5, 2010, Dr. [REDACTED] D.D.S., completed a Request for Prior Authorization for Comprehensive Orthodontic Treatment Form (Exhibit B, pages 3 & 4) on behalf of the Claimant and submitted it to the West Virginia Medical Institute (WVMI) on May 14, 2010 to determine eligibility for Medicaid payment.
- 2) On or about May 19, 2010, the Claimant and Dr. [REDACTED] were notified via a Notice of Denial for Dental Services (Exhibit C, pages 5 & 6) that the request for Medicaid payment of orthodontic 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: Documentation provided does not indicate medical necessity – specifically:

After review of the information the reviewing consultant has denied the request due to overbit [sic], overjet and crowding are within normal limits.

- 3) Dr. W. Christopher Taylor, an Orthodontic Consultant for the Bureau of Medical Services (BMS), purported that he reviewed x-rays, a written report, photographs and pictures of the models from impressions taken during an evaluation of the Claimant. He indicated that he agreed with the written report. However, as a condition of eligibility, the overbite must be impinging into the palate (bottom front teeth must touch, or impinge, the tissue behind the upper front teeth) and the photographs as well as impressions do not show this condition. The Claimant's overjet (distance front teeth jet out over the lower front teeth) is documented at 6mm but in order to qualify for medical necessity, the overjet must be 7mm or greater. Dr. Taylor testified that the medical documentation submitted fails to demonstrate medical necessity.
- 4) The Claimant acknowledged that she understands the policy and the explanation provided by Dr. Taylor indicating her son is not eligible for Medicaid payment of orthodontic services.
- 5) The WV Medicaid Provider Manual, Chapter 500 (Covered Services, Limitations and Exclusions), Section 505.8 (Prior Authorization-Orthodontic Services):

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).

Attachment 2 contains the form to request prior authorization for orthodontic services. This form is different from the authorization form for general dentistry. Supporting documentation must be submitted with the treatment request. Failure to submit any of the following information will result in a denial of the request for prior approval of orthodontic services:

- Panoramic Film
- Cephalometric Tracing
- Cephalometric X-ray
- Photographs - Intra and Extra Oral
- Treatment Plan, including findings, diagnosis, prognosis, length of treatment, and phases of treatment
- Upper and lower study casts trimmed to the correct occlusion. Failure to trim study casts to correct occlusion will delay decision.

The completed form and any supporting documentation must be sent to the BMS contracted agency.

Comprehensive orthodontic treatment is reimbursable only once in the member's lifetime. If treatment is discontinued or the patient transfers before completion of orthodontics, payment for the uncompleted portion must be returned to the BMS. A provider who accepts a transfer patient must complete a prior authorization request for continuing the previously initiated orthodontic treatment, and submit it to the BMS contracted agency.

If an eligible member under 21 years of age moves to WV from another State while undergoing active orthodontic treatment, a WV provider may request prior authorization to provide the balance of the treatment.

WV Medicaid does not cover orthodontic services for cosmetic purposes.

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) A thorough review of the clinical evidence, as well as testimony received at the hearing, clearly indicates that the Claimant fails to meet the medical necessity requirements. Based on the evidence, the Department was correct in denying Medicaid payment for orthodontic services.

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 ____ Day of August, 2010.

**Thomas E. Arnett
State Hearing Officer**