



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

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

October 27, 2010

-----for -----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 22, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage of 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 Medicaid Program services is determined based on current regulations. One of these regulations states that orthodontic services are covered for medically necessary procedures. Medically necessary orthodontic coverage will be limited to dento-facial anomalies or severe malocclusion. This excludes impacted teeth, crowding and cross bite cases. (WVDHHR Dental Services Manual Chapter 505, Section 505.8)

Information submitted at the hearing fails to demonstrate that your requested orthodontic services 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 coverage of orthodontic services.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Amy Workman, BMS

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

-----,

Claimant,

v.

Action Number: 10-BOR-1773

**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 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 telephonically on October 22, 2010 on a timely appeal filed August 17, 2010. The hearing was originally scheduled for September 24, 2010, but was rescheduled at the request of the Department and the Claimant.

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:

-----, mother of -----

Robin Brock, Program Manager, Bureau for Medical Services

Dr. Chris Taylor, Dental Consultant, West Virginia Medical Institute

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION 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 coverage of orthodontic services.

V. APPLICABLE POLICY:

WVDHHR Dental Services Manual, Chapter 505, Section 505.8

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVDHHR Dental Services Manual, Chapter 505, Section 505.8
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment from Dr. [REDACTED]
- D-3 Notices of Denial from West Virginia Medical Institute dated August 3, 2010

VII. FINDINGS OF FACT:

- 1) Dr. [REDACTED] submitted a Request for Prior Authorization for Comprehensive Orthodontic Treatment (D-2) to West Virginia Medical Institute (WVMI) on the Claimant's behalf on or about July 30, 2010.
- 2) On August 3, 2010, the Department, through WVMI, sent Notices of Denial for Dental Services (D-3) to both the Claimant and Dr. [REDACTED]. These notices state, in 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: Overbite, overjet and crowding are within normal limits.

- 3) WVMI Dental Consultant Dr. Chris Taylor reviewed reports from Dr. [REDACTED] (D-2), which indicate that the Claimant's over jet measures at four (4) millimeters and his over bite is three (3) millimeters. The reports reveal that the Claimant has a Class I molar relationship and moderate crowding. Based on this information, the Dental Consultant testified that the Claimant does not meet guidelines for medically necessary orthodontic services. He testified that the over jet must measure six (6) to seven (7) millimeters and the over bite must be impinging on the palate in order for orthodontic services to be considered medically necessary.

- 4) The Claimant testified that her son was involved in an accident at school and she would like his teeth to be restored to their pre-accident condition.
- 5) WVDHHR Dental Services Manual, Chapter 505, Section 505.8, Prior Authorization for Orthodontic Services (D-1), 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 medically necessary orthodontic coverage is limited to services for dento-facial anomalies. This excludes impacted teeth, crowding and cross bite cases. Only cleft palate and other skeletal problems, as well as severe malocclusions associated with dento-facial deformity, are considered medically necessary.
- 2) Evidence submitted at the hearing fails to demonstrate that the Claimant meets the medical necessity criteria for the Medicaid Program to cover orthodontic treatment.

- 3) The Department acted correctly in denying the Claimant's request for Medicaid authorization of orthodontic services.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the Claimant's request for Medicaid authorization of orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of October, 2010.

**Pamela L. Hinzman
State Hearing Officer**