



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661

Joe Manchin III  
Governor

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

April 15, 2010

-----For-----

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 23, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization of orthodontic services for -----.

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 the Medicaid program is based on current policy and regulations. These regulations provide that 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 (Dental Services Manual § 505.8).

The information submitted at your hearing failed to demonstrate the medical necessity of orthodontic services.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to deny Destiny Hinkle orthodontic services.

Sincerely,

Stephen M. Baisden  
State Hearings Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Lorna Harris, WV Bureau of Medical Services

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

-----,

**Claimant,**

**v.**

**Action Number: 09-BOR-1812**

**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 April 15, 2010 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 October 23, 2009 on a timely appeal, filed August 27, 2009.

**II. PROGRAM PURPOSE:**

The Program entitled Medicaid is administered by the West Virginia Department of Health & Human Resources.

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

Stacy Hanshaw, WV Bureau of Medical Services

Chris Taylor, DDS, Orthodontic Consultant to the WV Bureau of Medical Services

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the Board of Review.

All parties participated by conference call.

The Hearing Officer swore in all parties at the beginning of the hearing.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to deny Claimant orthodontic services.

**V. APPLICABLE POLICY:**

Dental Services Manual §505.8

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Dental Services Manual §505.8
- D-2 Prior Authorization Request Form dated October 22, 2009
- D-3 Denial Notification Letters to Claimant and [REDACTED] DDS, dated May 22, 2009

**VII. FINDINGS OF FACT:**

- 1) Dental Services Manual § 505.8 (Exhibit D-1) 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.

...

Medically necessary orthodontic coverage is limited to services for dento-facial anomalies. 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. full cusp Class II malocclusion with demonstrable impinging overbite into the palate).

- 2) A request for prior authorization for approval of orthodontic services for Claimant was submitted by [REDACTED] DDS, to the West Virginia Medical Institute (WVMI) on May 12, 2009. (Exhibit D-2) The request stated that the complete diagnosis for Claimant was "Class I malocclusion with upper and lower spacing." The recommendations for treatment section of the request indicated braces were needed. On page 2 of the request, the "Information Required for Assessing Handicapping Malocclusion Section" reports that Claimant had an overjet of 2 millimeters, an overbite of 50% (which means that only 50% of the lower teeth can be seen because they are blocked by the upper teeth), the Molar Relationship is rated at "1" for the left side and "1" for the right, the Skeletal Relationship is checked at level I, there are no missing or impacted teeth, no cleft palate, no crossbites, no open bites, and nothing written in the "Comments" section.
- 3) A denial notification letter (Exhibit D-3) was issued by the Department on May 22, 2009 which read in part:

Documentation provided does not indicate medical necessity; specifically, overbite and overjet are less than the requirements.
- 4) Chris Taylor, DDS and orthodontic consultant for the Bureau of Medical Services, testified that he reviewed the dental models, photographs and x-rays taken of the Claimant, and he agreed with Dr. [REDACTED] examination findings. Dr. Taylor testified to the reason for the denial of orthodontia for Claimant. According to the authorization request form and accompanying medical documentation from Dr. [REDACTED] Claimant's diagnoses are a class I malocclusion with upper and lower spacing. Claimant's overjet was rated at 2 millimeters and his overbite at 50% (Exhibit D-2). Dr. Taylor testified that a Class I malocclusion is normal, so the molar relationship is correct in Claimant's case. He stated that an overjet of 2 millimeters is within normal limits. Claimant's overbite was only 50%, meaning his lower teeth do not touch the upper palate of the mouth. In order to be medically eligible for orthodontics, the overbite would have to be 100% with palatal impingement, which means the lower front teeth must go up behind the upper front teeth and touch the tissue in the palate, causing discomfort or a malocclusion. He further testified that policy excludes orthodontia for spacing.
- 5) Claimant's representative and mother testified that Claimant's dentist had referred him to an orthodontist, and they both expressed Claimant's need for braces. She stated that since both the dentist and orthodontist felt he should have them, she thought that there was a need for them. She offered no substantive rebuttal to Department's testimony or evidence.

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

- 1) The medical evidence presented failed to show a severe dento-facial deformity as required by policy. Claimant does not have a full cusp Class II Malocclusion, his overbite is within normal limits, and his overjet is less than the requirements. Policy excludes orthodontia for spacing.

- 2) Claimant does not meet the criteria for the medical necessity of orthodontic services.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny prior authorization for orthodontic services for Claimant.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 15<sup>th</sup> day of April 2010.**

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**Stephen M. Baisden**  
**State Hearing Officer**