



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 27, 2010

Re: ----- Case No.: 10-BOR-1841

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 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 daughter 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
Amy Workman, BMS

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

-----,

Claimant,

v.

Action Number: 10-BOR-1841

**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 convened on October 22, 2010 on a timely appeal filed August 27, 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

-----, Claimant

Robin Brock, BMS (Bureau for Medical Services) – Participated telephonically

W. Christopher Taylor, D.D.S, Orthodontic Consultant for BMS – Participated telephonically

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS 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 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:

D-1 Dental Manual, Chapter 500, Section 505.8 Prior Authorization-Orthodontic Services – Pages 1-2

D-2 Information received from [REDACTED] DDS – Pages 3-4

D-4 Notice of Denial Determination by WVMI – Pages 5-6

***There was no Department Exhibit 3 (D-3) submitted.**

VII. FINDINGS OF FACT:

- 1) On August 2, 2010, Dr. [REDACTED] III, D.D.S., completed a Request for Prior Authorization for Comprehensive Orthodontic Treatment Form (D-2, pages 3 & 4) on behalf of the Claimant and submitted it to the West Virginia Medical Institute (WVMI) to determine eligibility for Medicaid payment of orthodontic services.
- 2) On or about August 20, 2010, the Claimant and Dr. [REDACTED] were notified via a Notice of Denial for Dental Services (D-4, pages 5 & 6) that the request for Medicaid payment of orthodontic (dental) 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:

Overbite and overjet are less than the requirements.

- 3) The Claimant's representative, -----, contends that her daughter has difficulty flossing her teeth because they are crowded. The Claimant reported that she cannot afford to purchase braces on her own.

- 4) The Department's Bureau for Medical Services (BMS) representative reviewed the policy identified as Exhibit D-1 and called upon Dr. W. Christopher Taylor, D.D.S., an orthodontic consultant for BMS, to review the medical findings. Dr. Taylor testified that he reviewed x-rays, a written report, photographs and models from impressions taken during an evaluation of the Claimant. He indicated that he agreed with the diagnoses included on the written report, and noted that these findings are all within the normal range. To explain, Dr. Taylor noted that a Skeletal Class 1 is within the normal range and a Class II malocclusion means the upper molars are aligned a little forward of where they should be with the lower molars, approximately 1mm. This, however, does not meet the criteria as the individual must have a Full Cusp Class II malocclusion (molars must be 4mm to 5mm forward of where they are supposed to be). 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 2mm but in order to qualify for medical necessity, the overjet must be 6mm or greater. There is evidence of some mild crowding on the top and bottom but this is a cosmetic problem and is not considered for medical necessity. Dr. Taylor testified that the medical documentation submitted fails to demonstrate medical necessity in any of the areas an individual can be determined 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 [emphasis added]. 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 [emphasis added]. 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 [emphasis added]. 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 review of the clinical evidence, as well as testimony received at the hearing, clearly indicates that the Claimant's condition fails to meet the level of severity required to demonstrate medical necessity. Based on the evidence, the Department was correct in denying Medicaid payment for orthodontic treatment.

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 October, 2010.

Thomas E. Arnett
State Hearing Officer