



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

**Joe Manchin III
Governor**

**Board of Review
P.O. Box 1736
Romney, WV 26757**

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

November 15, 2010

-----for -----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your daughter's hearing held November 5, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your daughter's prior authorization request for orthodontia 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 orthodontia services under the Medicaid Program is based on current policy and regulations. These regulations provide that medically necessary orthodontic coverage is limited to services for dento-facial anomalies. This excludes impacted teeth, crowding, and cross bites. Among the situations considered for coverage are severe malocclusions associated with dento-facial deformity. (Bureau for Medical Services Dental Manual, Chapter 505, Section 505.8)

The information which was submitted at your hearing revealed that the standards of severe malocclusions 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 to deny prior authorization for Medicaid payment for orthodontia services.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

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

-----,

Claimant,

v.

Action Number: 10-BOR-1906

**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 on November 5, 2010 on a timely appeal, filed September 8, 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 and mother
Robin Brock, RN Program Manager, Bureau for Medical Services (BMS)
Virginia Evans, DHHR Specialist, Bureau for Medical Services (BMS)
Dr. Christopher Taylor, Orthodontic Consultant, West Virginia Medical Institute (WVMI)

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to deny the Claimant's prior authorization request for orthodontia services.

V. APPLICABLE POLICY:

Bureau for Medical Services Dental Services Manual, Chapter 505, Section 505.8

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Bureau for Medical Services Dental Services Manual, Chapter 505, Section 505.8
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment Form
[REDACTED] D.M.D. dated August 2, 2010
- D-3 Notice of Denial for Dental Services dated August 13, 2010

VII. FINDINGS OF FACT:

- 1) On August 2, 2010, [REDACTED] D.M.D, submitted Exhibit D-2, Request for Prior Authorization for Comprehensive Orthodontic Treatment to the Department on behalf of the Claimant. This request listed the Claimant's complete diagnosis as, "class II skeletal and dental with excess oj (overjet) and ob (overbite) and misaligned incisors. Mandibular e's are retained and lower 5's may need assistance in order to erupt (e.g. remove lower e's)." The recommendations for comprehensive orthodontic treatment were listed on the request as, "comprehensive orthodontics to level and align, facilitate the eruption of the 5's possibly the forsus class II appliance and or elastics. Finish, detail and retain."
- 2) On August 13, 2010, the Department through the West Virginia Medical Institute (WVMI) issued Exhibit D-3, Notice of Denial for Dental Services to the Claimant and [REDACTED] D.M.D. This notice documents 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 requirements.

- 3) Dr. Christopher Taylor, WVMI Orthodontic Consultant reviewed a written report, models and x-rays of the Claimant's teeth and jaws in the determination for prior authorization. Exhibit D-2 listed the Claimant's Class II overjet at three to four millimeters with an overbite at sixty percent. Dr. Taylor stated that the Claimant's overjet of three to four millimeters did not meet the requirements for prior authorization because the standard guideline of seven millimeters for severe malocclusions was not met. Dr. Taylor indicated that the guidelines for prior authorization for an overbite require an impinging overbite into the palate, in which the lower front teeth touch the tissue in the mouth when the back teeth are put together. Dr. Taylor stated

that his review of the x-rays and models of the Claimant's teeth and jaws did not conclude that the overbite was impinging into the palate. Dr. Taylor testified that the diagnosis of "misaligned incisors" related in Exhibit D-2, refers to "crowding" of the teeth and that "crowding" is not considered medically necessary in prior authorization guidelines. Dr. Taylor indicated that any procedures which would require the extraction of the Claimant's "baby teeth" would not require prior authorization.

- 4) -----, the Claimant's mother testified that Dr. [REDACTED] indicated that her child's dental conditions was not severe at this time, but would eventually deteriorate. -----stated that her child is constantly biting the inside of her cheek and lip due to the condition of her teeth. -----indicated that orthodontia services were not requested for cosmetic purposes, but were requested to help prevent her daughter from biting her cheek and lip.
- 5) Dental Manual, 505.8 Prior Authorization-Orthodontic Services states:

Orthodontic services are covered on a limited basis for Medicaid members less than 21 years of age, whose malocclusions 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 bits. 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 conditions for which orthodontia services can be approved.

- 2) Testimony from the Claimant's mother indicated that her daughter's malocclusions are not severe, but have the capacity to deteriorate. The documentation submitted for review by WVMI did not meet the standards of severe malocclusions; therefore, the Department acted correctly in its decision to deny the prior authorization request for orthodontic services.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department to deny the Claimant's request for Medicaid payment of orthodontia services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of November 2010.

**Eric L. Phillips
State Hearing Officer**