



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D. Ph.D.
Cabinet Secretary

December 30, 2010

-----for -----

Dear Ms. -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 10, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny orthodontic services for -----.

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 is based on current policy and regulations. Some of these regulations state 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 Hearing Officer to **uphold** the action of the Department to deny ----- orthodontic services.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Bureau of Medical Services

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

-----,

Claimant,

v.

Action Number: 10-BOR-2098

**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 December 10, 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.

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

----- , Witness for Claimant

Virginia Evans, Bureau of Medical Services

Chris Taylor, DDS, Orthodontic Consultant

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

This hearing was held by videoconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department correctly denied 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 dated September 24, 2010
- D-3 Denial Notification Letters dated October 5, 2010

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for prior authorization for orthodontic services for Claimant was submitted to the West Virginia Medical Institute (WVMI) on September 24, 2010 for approval by [REDACTED] DDS (D-2). A denial notification letter was issued by the Department on October 5, 2010 which read in part (D-3):

A request for prior authorization was submitted for dental services.
Based on the medical information provided, the request has been denied.

Documentation provided does not indicate medical necessity – specifically:
Doesn't meet criteria [sic]. The overbite, overjet and crowding are within
normal limits.

- 2) Dr. Chris Taylor, orthodontic consultant with WVMI, testified to the denial of orthodontic services for Claimant. Dr. Taylor stated the authorization request form submitted by Claimant's orthodontist indicated Claimant had a class I malocclusion and

minor crowding. Claimant's over jet was rated at 2-3 millimeters and her overbite was 60-70% (D-2). Dr. Taylor explained that a class I malocclusion means that Claimant's molars fit together correctly. Dr. Taylor testified that according to the medical criteria found in policy, Claimant's over jet would need to be at least 7 millimeters and her overbite would have to be at 100%. Additionally, Dr. Taylor stated overcrowding is specifically excluded in policy.

3) Claimant's mother, -----, testified that her daughter's bottom teeth recently started crowding and worries that the crowding will only worsen. -----stated she was told the overcrowding of her daughter's teeth could cause cavities.

4) Dental Services Manual § 505.8 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.

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).

VIII. CONCLUSIONS OF LAW:

- 1) The information submitted by Claimant's orthodontist did not meet the medical criteria set forth in policy for Claimant to receive orthodontic services.
- 2) The medical necessity of orthodontia for Claimant could not be established and orthodontic services were correctly denied.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny 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 30th Day of December 2010

**Kristi Logan
State Hearing Officer
Member, Board of Review**