



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

Joe Manchin III
Governor

Board of Review
1400 Virginia Street
Oak Hill, WV 25901

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

January 12, 2010

-----for -----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 8, 2010. 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 prior authorization of orthodontic services for -----.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Bureau of Medical Services

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

-----,

Claimant,

v.

Action Number: 09-BOR-2297

**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 January 8, 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 January 8, 2010 on a timely appeal, filed November 30, 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:

-----, 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 Board of Review.

All participants testified by phone.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's decision to deny prior authorization of orthodontic services for Claimant was correct.

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 Authorization Request Form dated September 30, 2009

D-3 Denial Notification Letters dated October 16, 2009 to Claimant and [REDACTED] DDS

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 30, 2009 for approval by [REDACTED] DDS (D-2). A denial notification letter was issued by the Department on October 16, 2009 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.

Overbite and overjet are less than the requirements. Lower anterior crowding is not covered by the program.

- 2) Chris Taylor, DDS and orthodontic consultant for the Bureau of Medical Services, 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, deep overbite and lower arch crowding. Claimant's overbite is rated at 90-100% and his overjet is at 3 millimeters (D-2).

Dr. Taylor testified that although Claimant's overbite was rated by Dr. [REDACTED] at 90-100%, his lower teeth do not touch the upper palate of the mouth as mandated by policy. Policy also requires an overjet to be a minimum of 7 millimeters and crowding is specifically excluded.

- 3) -----, Claimant's mother, testified that her son has two (2) teeth under his tongue due to the crowding. His wisdom teeth have come in sideways and dig into his cheeks.
- 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 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 and his overbite and overjet are less than the requirements. Policy excludes orthodontia for crowding.
- 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 of 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 12th day of January 2010.

**Kristi Logan
State Hearing Officer**