



**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**

April 14, 2010

-----for -----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your daughter's hearing held April 9, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny Orthodontia services for your daughter.

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 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 daughter's 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 orthodontic services.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Lorna Harris, BMS

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

-----,

Claimant,

v.

Action Number: 09-BOR-2340

**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 12, 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 April 9, 2010 on a timely appeal, filed December 7, 2009.

It shall be noted that this hearing was originally scheduled for February 12, 2010. Good cause was granted to the Claimant's representative for failure to appear on scheduled date and was rescheduled to April 9, 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
Virginia Evans, Program Manager, Bureau for Medical Services
Dr. Christopher Taylor, Orthodontic Consultant, West Virginia Medical Institute

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 to deny prior authorization for orthodontia services to the Claimant.

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 Manual, Chapter 505, Section 505.8
- D-2 Request for Prior Authorization, [REDACTED] DDS, M.S.
- D-3 Notice of Denial for Dental Services dated November 6, 2009

VII. FINDINGS OF FACT:

- 1) On October 21, 2009, [REDACTED] DDS submitted a Request for Prior Authorization for Comprehensive Orthodontic Treatment, Exhibit D-2, to the Department for the Claimant. The Claimant, at the time of the prior authorization request was fourteen (14) years old.
- 2) On November 6, 2009, the Department through West Virginia Medical Institute (WVMI) issued Exhibit D-3, Notice of Denial for Dental Services to the Claimant and [REDACTED] III, DDS. 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: Orthodontia-Documentation provided does not indicate medical necessity-specifically: Overbite and overjet are less than the requirements.

- 3) Dr. Christopher Taylor, WVMI Orthodontic Consultant reviewed the reports from [REDACTED] DDS along with models, photographs and written documentation of the Claimant's teeth and jaws. Exhibit D-2, Request for Prior Authorization, documents the Claimant's complete diagnosis of "one hundred percent deep bite with narrow max and mand arches; mild max and moderate mand crowding". The prior authorization listed full fixed orthodontics for the recommendations for comprehensive orthodontic treatment. The Claimant's orthodontist labels the Claimant's overjet as three millimeters with a one hundred percent overbite. Dr. Taylor testified that he agreed with Dr. [REDACTED] diagnosis of the Claimant, but the Claimant's malocclusions did not meet the guidelines for prior authorization. Dr. Taylor stated that the

Claimant's overjet (upper teeth protruding over the lower teeth) of three millimeters did not meet the standard guidelines of seven millimeters and therefore did not meet the requirements for prior authorization. Upon review of the x-rays and models of the Claimant's teeth and jaws, Dr. Taylor agreed with the one-hundred percent overbite diagnosis, but testified to be considered for prior authorization the individuals overbite must be an impinging overbite into the palate. Information from Dr. [REDACTED] did not list an impinging overbite into the palate and Dr. Taylor's review of the Claimant's dental records did not reveal an impinging overbite. Additional testimony from Dr. Taylor indicated that medical necessity for orthodontic coverage is approved when a full cusp Class II malocclusion exist. Dr. Taylor's review of the Claimant's molar relationship revealed the right side of the Claimant's jaw to be a Class II, but this was not considered to be a full cusp Class II relationship as it was considered an "end to end" molar relationship. Testimony revealed that the left side of the Claimant's jaw was a Class I and this was considered the norm when reviewing molar relationship. Dr. Taylor testified that the Claimant's malocclusions did not meet the guidelines established by policy and medical necessity for prior authorization could not be approved.

- 4) -----, the Claimant's representative and mother testified that she was concerned with the pain that her daughter was experiencing from the crowding of her teeth. -----stated that her daughter only experiences such pain when she eats. -----also indicated that Dr. [REDACTED] did inform her that her daughter's overbite impinged into the tissue of the palate. Further testimony from -----, revealed that her daughter has indentations in her palate behind her upper teeth from her overbite. Dr. Taylor testified that crowded teeth do not cause pain and other conditions may exist that would cause the Claimant pain. Dr. Taylor purported that his review of the photographs and written documentation from Dr. [REDACTED] did not reveal an impinging overbite into the palate.

- 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 create a disability and impair 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. 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 orthodontic services can be approved.
- 2) Testimony from the Claimant's mother revealed that her daughter does suffer from an impinging overbite into the palate, however documentation submitted for review by West Virginia Medical Institute (WVMI) failed to establish the existence of such claims. The Department relied on information submitted from the Claimant's orthodontist and acted correctly in its decision to deny the Claimant's request for Medicaid payment of 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 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 April 2010.

**Eric L. Phillips
State Hearing Officer**