



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

February 17, 2010

-----for -----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 12, 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 ----- orthodontic services.

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-2483

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 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 February 12, 2010 on a timely appeal, filed December 18, 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:

-----, Representative/Witness for Claimant

Stacy Hanshaw, Bureau of Medical Services (testified by phone)

Chris Taylor, DDS, Orthodontic Consultant, Bureau of Medical Services (testified by phone)

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the 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's decision to deny Claimant orthodontic services 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 Prior Authorization Request Form dated October 22, 2009

D-3 Denial Notification Letters to Claimant and [REDACTED] DDS dated October 28, 2009

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 October 22, 2009 for approval by Daniel Foley, DDS (D-2). A denial notification letter was issued by the Department on October 28, 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.

- 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 moderate crowding. Claimant's overjet was rated at 4 millimeters and her overbite at 85% (D-2).

Dr. Taylor testified that in order for Claimant to meet the requirements for orthodontic services, her overjet would have to be at least 7 millimeters. Claimant's overbite was only 85%, meaning her lower teeth do not touch the upper palate of the mouth. Additionally, policy specifically excludes crowding.

- 3) -----, Claimant's mother, gave testimony regarding her concern that her daughter's teeth may worsen without treatment.
- 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 her 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 for 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 17th day of February 2010.

**Kristi Logan
State Hearing Officer**