



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Joe Manchin III  
Governor

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

March 3, 2010

-----for -----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 26, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your son Medicaid coverage of orthodontic 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 Medicaid Program services is determined based on current regulations. One of these regulations states that orthodontic services are covered for medically necessary procedures. Medically necessary orthodontic coverage will be limited to dento-facial anomalies or severe malocclusion. This excludes impacted teeth, crowding and cross bite cases. [Dental Manual, Chapter 505, Section 505.8, Prior Authorization for Orthodontic Services]

Information submitted at the hearing fails to demonstrate that the requested orthodontic services are medically necessary.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for Medicaid coverage of orthodontic services.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

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

-----for -----,

**Claimant,**

**v.**

**Action Number: 10-BOR-672**

**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 March 3, 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 26, 2010 on a timely appeal filed January 19, 2010.

**II. PROGRAM PURPOSE:**

The program entitled Medicaid is set up cooperatively between the Federal and State governments and 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's mother

-----, Claimant's stepfather

-, Orthodontic Consultant, West Virginia Medical Institute

Stacy Hanshaw, RN, Bureau for Medical Services

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

It should be noted that all parties participated telephonically.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department was correct in its action to deny the Claimant's request for Medicaid coverage of orthodontic services.

**V. APPLICABLE POLICY:**

WVDHHR Dental Services Manual, Chapter 505, Section 505.8, Prior Authorization for Orthodontic Services

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 WVDHHR Dental Services Manual, Chapter 505, Prior Authorization for Orthodontic Services
- D-2 Information from Dr. [REDACTED]
- D-3 Notices of Denial from West Virginia Medical Institute dated December 24, 2009

**VII. FINDINGS OF FACT:**

- 1) In December 2009, Dr. [REDACTED] submitted a Request for Prior Authorization for Comprehensive Orthodontic Treatment (D-2) to the Department for the Claimant, who was then 11 years old.
- 2) On December 24, 2009, the Department, through West Virginia Medical Institute (WVMI), sent Notices of Denial for Dental Services (D-3) to both the Claimant and Dr. Ray. These notices state, in 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) WVMi Orthodontic Consultant ----- reviewed reports from Dr. [REDACTED] (D-2), testifying that the Claimant's overjet measures at two (2) millimeters and his overbite is four to five (4 to 5) millimeters, less than the required measurements for orthodontic service authorization. The Claimant's diagnosis is "Class II, skeletal & dental with anterior deep bite." Based on this information, the Orthodontic Consultant testified that the Claimant does not meet guidelines for medically necessary orthodontic services. He explained that the Claimant's overjet is within normal limits and his overbite does not impinge into the palate. Dr. Taylor indicated that the Claimant's molar relationship does not constitute a full-cusp Class II malocclusion and he has no cleft palate, cross bite, or open bite.
- 4) The Claimant's mother and stepfather voiced concerns about the mold taken of the Claimant's teeth and indicated that the Claimant has difficulty eating meat. Dr. Taylor stated that he does not believe Dr. Ray would have submitted an incorrect mold for consideration and that the Claimant could submit future requests for orthodontic services for review by WVMi.
- 5) Dental Manual, Chapter 505, Section 505.8, Prior Authorization for Orthodontic Services (D-1) 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. 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) Evidence submitted at the hearing fails to demonstrate that the Claimant meets the medical necessity criteria for Medicaid coverage of orthodontic treatment.
- 3) The Department acted correctly in denying the Claimant's request for Medicaid payment of orthodontic services.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying 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 3<sup>rd</sup> Day of March, 2010.**

---

**Pamela L. Hinzman  
State Hearing Officer**