



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

Board of Review
P.O. Box 1736
Romney, WV 26757

**Earl Ray Tomblin
Governor**

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

August 30, 2011

Guardian of -----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your grandson's hearing held August 19, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny your grandson's prior authorization request for Medicaid payment 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 orthodontic services under the Medicaid program is based on current policy and regulations. Some of these regulations state that medical necessity review criteria may be based on adaptations of dental standards developed by the Periodicity and Anticipatory Guidance Recommendations by the American Academy of Pediatric Dentistry (AAPD), the American Academy of Pediatrics (AAP), the American Dental Association (ADA), and research-based nationally accredited medical appropriateness criteria, such as InterQual, or other appropriate criteria approved by BMS. A request for prior authorization is reviewed by the Utilization Management Contractor (UMC). It is the responsibility of the treating/prescribing practitioner to submit the appropriate Prior Authorization Request Form with medical documentation to the UMC. When a request for service is denied based on medical necessity, the denial is communicated with the reason(s) of denial to the provider of service and the member or their legal guardian by the UMC. (Bureau for Medical Services Provider Manual, Chapter 505, §505.8)

The information which was submitted at your grandson's hearing failed to demonstrate that orthodontic services are medically necessary.

It is the decision of the State Hearing Officer to Uphold the action of the Department in denying your grandson's request for prior authorization of Medicaid payment for orthodontic services.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Amy Workman, Bureau of Medical Services

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1558

**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 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 a timely appeal, filed July 15, 2011.

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:

-----, Legal Guardian for Claimant

Stacy Hanshaw, Program Manager for Bureau for Medical Services (BMS)

Christopher Taylor, D.D.S., Orthodontic Consultant for Bureau for Medical Services (BMS)

All participants participated telephonically.

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 in its decision to deny the Claimant's prior authorization request for Medicaid payment of orthodontic services.

V. APPLICABLE POLICY:

WV Medicaid Provider Manual, Chapter 505 (Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services), Section 505.8 (Prior Authorization)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Medicaid Provider Manual, Chapter 505 (Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services), Section 505.8 (Prior Authorization)
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment and Information from [REDACTED] D.M.D dated June 29, 2011
- D-3 Notice of Denial for Dental Services dated July 13, 2011

VII. FINDINGS OF FACT:

- 1) On June 29, 2011, [REDACTED] D.M.D completed Exhibit D-2, Request for Prior Authorization for Comprehensive Orthodontic Treatment on behalf of the Claimant and submitted it to the West Virginia Medical Institute (WVMI). This request was completed to determine medical necessity for prior authorization of Medicaid payment for the Claimant's orthodontic services.
- 2) On July 13, 2011, the Claimant and [REDACTED] D.M.D. were issued Exhibit D-3, Notice of Denial for Dental Services. 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: Documentation provided does not indicate medical necessity-specifically: Doesn't meet one of the ten criteria set by BMS.

Additionally, [REDACTED] D.M.D's Notice of Denial documents that a written reconsideration of the determination could be submitted to WVMI with 60 days of receipt of the corresponding notice.

- 3) Christopher Taylor, D.D.S.-Orthodontic Consultant for the Bureau of Medical Services reviewed Exhibit D-2 and explained how the medical findings relate to established policy. The Claimant's orthodontist documented a complete diagnosis in the request for prior authorization (Exhibit D-2) as, "Class III malocclusion, minimal ob and oj, ectopic/blocked maxillary

canines, max crowding= 5mm mand crowding= 0, slight midline discrepancy.” Additionally, the Claimant’s orthodontist requested comprehensive orthodontics “to level, align, facilitate alignment of the upper canine teeth.” According to Dr. Taylor, in order for prior authorization for Medicaid payment to be approved, the individual must meet one of the ten established criteria as listed in Exhibit D-2. These ten criteria include:

- 1) Overjet in excess of 7mm
- 2) Severe malocclusion associated with dento-facial deformity
- 3) True anterior open bite
- 4) Full cusp classification from normal (Class II or Class III)
- 5) Palatal impingement of lower incisors into the palatal tissue causing tissue trauma
- 6) Cleft palate, congenital or developmental disorder
- 7) Anterior crossbite (2 or more teeth and in cases where gingival stripping from the cross bite is demonstrated and not correctable by limited orthodontic treatment
- 8) Unilateral posterior crossbite with deviation or bilateral posterior crossbite involving multiple teeth including at least one molar
- 9) True posterior open bite (Not involving partially erupted teeth or one or two teeth slightly out of occlusion and not correctable by habit therapy
- 10) Impacted teeth (excluding 3rd molars) cuspids and laterals only

The Claimant’s orthodontist requested orthodontia services based on the crowding of the Claimant’s upper canine teeth. Dr. Taylor indicated that the information supplied by the Claimant’s orthodontist does not support a functional problem and was more aesthetic in nature. Dr. Taylor testified that “crowding” is not a medical necessity and does not meet one of the ten established criteria for prior authorization.

- 4) -----, the Claimant’s guardian, did not refute any of the clinical findings cited by the Department during the hearing. ----- indicated that the Claimant’s orthodontist informed him that the Claimant was in need of braces due to the crowding of the canine teeth and that the teeth behind the canine teeth are “turning sideways.” ----- indicated that the crowding of the Claimant’s teeth is visible and he wants his grandson to look his best and be free of pain.
- 5) WV Medicaid Provider Manual, Chapter 505 (Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services), Section 505.8 (Prior Authorization) documents in pertinent part:

Medical necessity review criteria may be based on adaptations of dental standards developed by the Periodicity and Anticipatory Guidance Recommendations by the American Academy of Pediatric Dentistry (AAPD), the American Academy of Pediatrics (AAP), the American Dental Association (ADA), and researched-based, nationally accredited medical appropriateness criteria, such as InterQual, OR other appropriate criteria approved by BMS.

The Utilization Management Contractor (UMC) reviews all request for services requiring prior authorization. It is the responsibility of the treating/prescribing practitioner to submit the appropriate Prior Authorization Request Form with medical documentation to the UMC.

When a request for service is denied based on medical necessity, the denial is communicated with the reason(s) of denial to the provider of services and the member or their legal guardian by the UMC.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that prior authorization is reviewed by the Utilization Management Contractor (UMC) and it is the responsibility of the treating/prescribing practitioner to submit the appropriate Prior Authorization Request Form with medical documentation to the UMC. When a request for service is denied based on medical necessity, the denial is communicated with the reason(s) of denial to the provider of service and the member or their legal guardian by the UMC.
- 2) Testimony and evidence presented during the hearing reveals that the Claimant's condition at the time of the request for prior authorization failed to demonstrate medical necessity for orthodontic services. Therefore, the Department was correct in its decision to deny the Claimant's prior authorization request for Medicaid payment of orthodontic services.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to deny the Claimant's prior authorization 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 August, 2011.

Eric L. Phillips
State Hearing Officer