



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

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

September 19, 2011

-----for -----

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 9, 2011. Your hearing request was based on the Department of Health and Human Resources' denial of 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 medical necessity based on InterQual criteria must be established before prior authorization of orthodontic services can be granted (Dental, Orthodontic and Oral Health Services Provider Manual § 505.8).

The information submitted at your hearing failed to establish 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.

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 AND HUMAN RESOURCES  
BOARD OF REVIEW**

**IN RE:    -----,**

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-1585**

**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 September 9, 2011 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 12, 2011.

**II.   PROGRAM PURPOSE:**

The program entitled Medicaid is administered by the West Virginia Department of Health and 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

-----, Witness for Claimant

Virginia Evans, Bureau of Medical Services (testified by phone)

Chris Taylor, DDS, 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 prior authorization for orthodontic services was correct.

**V. APPLICABLE POLICY:**

Dental, Orthodontic and Oral Health Services Provider Manual § 505.8

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

**Department's Exhibits:**

- D-1 Dental, Orthodontic and Oral Health Services Provider Manual § 505.8
- D-2 Authorization Request Form dated May 4, 2011
- D-3 Denial Notification Letters dated May 11, 2011

**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 May 4, 2011 for approval (D-2). A denial notification letter was issued by the Department on May 11, 2011 which reads in pertinent part (D-3):

A request for prior authorization was submitted for dental services. Based on the medical information provided, the request has been denied.

After review of the information provided, the request for D08090 and D8680 the consultant denied this due to the request not meeting any of the criteria set by BMS [Bureau of Medical Services].

- 2) Dr. Chris Taylor, orthodontic consultant with BMS, testified to the reasons for the denial of services for Claimant. Dr. Taylor testified that according to the authorization request form submitted by Claimant's dentist, Claimant has diagnoses of a Class I skeletal, Class I dental and a severe misalignment of the upper maxillary incisor. Based on the x-rays, models and reports that were submitted, Dr. Taylor stated he agreed with Claimant's diagnoses (D-2).

Dr. Taylor referred to the criteria required by BMS and WVMI that must be met in order for an individual to receive orthodontic services. The criteria were also submitted as part of the authorization request form, of which Claimant's dentist did not indicate that Claimant meet any of the conditions listed. This criterion, as indicated on the checklist, is as follows (D-2):

Must meet at least one of the following criteria:

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

Dr. Taylor concurred with Claimant's diagnoses as reported on the authorization request form which were supported by models and x-rays. Claimant's skeletal and molar relationships are a Class I, which is normal. Dr. Taylor stated Claimant has a small overbite, but this overbite does not cause palatal impingement. Dr. Taylor stated Claimant's condition does not meet the medical requirements for services.

- 3) -----, Claimant's mother, disagreed with Dr. Taylor's testimony. -----stated the x-rays of Claimant's teeth shows her "big tooth" is turned in the opposite direction than is normal and this tooth touches the gum when she bites. ----- stated Claimant cannot close her mouth properly. -----stated Claimant has speech problems due to her teeth and she is only requesting braces on the upper teeth. -----stated Claimant has had surgeries to removed extra teeth and bone fragments, which have not corrected the tooth that is crooked. They were advised that retainers would not correct Claimant's teeth and that she needed braces.

-----stated she spoke to Claimant's dentist after receiving the denial and was advised that he would not request a reconsideration of the denial and she could pursue an appeal if desired.

- 4) Dental, Orthodontic and Oral Health Services Provider Manual § 505.8 states:

Effective with this manual, 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. Prior authorization does not guarantee payment.

The UMC [WVMI] reviews all requests 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.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy holds that medical necessity must be established for the approval of orthodontic services.
- 2) The medical documentation submitted by the Claimant's practitioner failed to meet the guidelines as found in the InterQual criteria and did not meet the medical criteria for 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 19<sup>th</sup> day of September 2011.**

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**Kristi Logan**  
**State Hearing Officer**