



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

January 3, 2011

-----for -----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 10, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny ---
-- 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 the Medicaid program is based on current policy and regulations. Some of these regulations state 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 establish the medical necessity of orthodontic services for -----.

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny -----
orthodontic services.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Bureau of Medical Services

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

-----,

Claimant,

v.

Action Number: 10-BOR-2074

**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 December 10, 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.

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:

-----, Witness for Claimant

Virginia Evans, Bureau of Medical Services

-----, DDS, Orthodontic Consultant

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

All participants testified by phone.

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 August 9, 2010
- D-3 Denial Notification Letters dated August 18, 2010

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 August 8, 2010 for approval by [REDACTED] DDS (D-2). A denial notification letter was issued by the Department on August 18, 2010 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.

Documentation provided does not indicate medical necessity – specifically:
Overbite, overjet are within normal limits

- 2) -----, DDS, orthodontic consultant with WVMI, testified to the reasons for the denial of orthodontia for Claimant. ----- stated Claimant's orthodontist diagnosed Claimant with a class I malocclusion, a deep bite and crowding. ----- testified Claimant's overbite was rated at 4 millimeters and her overjet at 1 millimeter (D-2). ----- stated in order for Claimant to meet the medical criteria in policy, her overjet would need to be at 7 least millimeters and her overbite would have to be deep and

impinging, with the lower teeth touching the upper palate of the mouth. Additionally, ----- stated policy specifically excludes orthodontia for crowding.

3) -----, Claimant's mother, testified that Claimant's wisdom teeth have started to come in and she is worried that her condition may worsen by this.

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 evidence submitted failed to demonstrate the medical necessity of orthodontic services for Claimant. Claimant's overbite and overjet were less than the requirements found in policy; crowding is specifically excluded from services.

2) The Department correctly denied Claimant orthodontic services.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny Claimant orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of January 2011

**Kristi Logan
State Hearing Officer
Member, Board of Review**