



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Earl Ray Tomblin  
Governor

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

March 18, 2011

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

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your son's hearing held March 11, 2011. Your hearing request was based on the Department of Health and Human Resources' denial of orthodontia.

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 appropriate criteria approved by BMS. (Bureau for Medical Services Provider Manual, Chapter 505, §505.8)

The information which was submitted at your son's hearing revealed that the standards of severe malocclusion were not met, and medical necessity for orthodontia could not be established.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying orthodontia.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Amy Workman, Department Representative

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-2463**

**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 18, 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 March 11, 2011 on a timely appeal, filed December 22, 2010.

**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:**

-----, Claimant's representative  
Robin Brock, Department representative  
Dr. Chris Taylor, Department's witness

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct to deny orthodontia to the Claimant.

#### **V. APPLICABLE POLICY:**

Bureau for Medical Services Provider Manual, Chapter 505: Dental, Orthodontic, and Oral Health Services; §505.8

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

##### **Department's Exhibits:**

- D-1 Bureau for Medical Services Provider Manual, Chapter 505: Dental, Orthodontic, and Oral Health Services; §505.8
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment from [REDACTED] DDS, dated December 6, 2010
- D-3 Notice of Denial for Dental Services, dated December 10, 2010

#### **VII. FINDINGS OF FACT:**

- 1) On December 6, 2010, the Claimant's orthodontist submitted a prior authorization request (Exhibit D-2) to the Department for orthodontia for the Claimant. This request was denied in writing on or about December 10, 2010 (Exhibit D-3) to the Claimant and his provider. The reason for denial was provided in this notice as follows, in pertinent part:

Orthodontia – Documentation provided does not indicate medical necessity – specifically:

Request for D8080 and D8680 has been denied due to overbite is less than the requirements. Molar relationship is less than a full cusip [sic] class III.

- 2) Robin Brock, representative for the Department's Bureau for Medical Services, presented the appropriate policy as Bureau for Medical Services Provider Manual, Chapter 505: Dental, Orthodontic, and Oral Health Services; §505.8, which states, in pertinent part:

## 505.8 PRIOR AUTHORIZATION

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.

The procedure codes of D8080 and D8680, noted on both the prior authorization request form (Exhibit D-2) and the denial notices (Exhibit D-3), are listed in Appendix A of the same manual as “comprehensive orthodontic treatment of the adolescent dentition” and “orthodontic retention,” respectively, and both are noted as requiring prior authorization with documentation, radiographs, and dental molds.

- 3) Dr. Chris Taylor, Orthodontic Consultant for the Department, testified that he reviewed the prior authorization request for orthodontia (Exhibit D-2) for the Claimant, as well as photographs, x-rays, and models of the Claimant’s teeth. He noted that the request listed the Claimant’s overjet as 4mm, and that the minimum overjet to establish medical necessity is 7mm. He testified that the Claimant’s overbite was listed as 3mm, but that the guideline of “impinging overbite into the palate” was not met from his review. He noted that the Claimant’s skeletal relationship was a Class 2, and the molar relationship was listed as mixed, with a Class 3 on the right side and a Class 1 on the left side. He testified that a Class 1 is normal, and that the abnormal relationships did not result in an impinging overbite into the palate. He testified that all the information needed was provided, and that he agrees with everything the submitting provider stated in the request, but that the provided information does not meet the medical necessity requirements for orthodontia.
- 4) -----, the Claimant’s father, testified that the Claimant’s teeth are crowded, overlapping and that the Claimant needs braces. He is concerned that the Claimant will have jaw problems like his without braces. Dr. Taylor testified that there was no mention in the documentation of the Claimant having any jaw noise or jaw pain.

## VIII. CONCLUSION OF LAW:

- 1) The Department’s Orthodontic Consultant confirmed that neither the extent of overjet, nor the guidelines for overbite indicative of medical necessity for orthodontia were met. The action of the Department to deny orthodontia due to the failure to establish medical necessity was correct.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny orthodontia.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ Day of March, 2011.**

---

**Todd Thornton  
State Hearing Officer**