



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

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

May 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 April 8, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization of orthodontic services for your stepdaughter -----.

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 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 upon medical necessity (Dental Services Manual §505.8).

The information submitted at your hearing failed to demonstrate the medical necessity of orthodontic services.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to deny orthodontic services for -----.

Sincerely,

Stephen M. Baisden  
State Hearings Officer  
Member, State Board of Review

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

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

-----,  
Claimant,

v.

**Action Number: 11-BOR-651**

**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 January 26, 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 April 8, 2011 on a timely appeal filed February 15, 2011.

**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:**

-----, Claimant's Representative and Stepmother

Virginia Evans, WV Bureau of Medical Services  
Chris Taylor, DDS, Orthodontic Consultant to the WV Medical Institute

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the Board of Review.

This hearing took place via telephone conference call.

The Hearing Officer placed all participants under oath at the beginning of the hearing.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to deny Claimant orthodontic services.

**V. APPLICABLE POLICY:**

Dental Services Manual §505.8

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

**Department's Exhibits:**

D-1 WVDHHR Medicaid Policy Manual §505.8.

D-2 Prior Authorization Request Form dated January 5, 2011.

D-3 Denial Notification Letters to Claimant and [REDACTED] DDS, dated January 11, 2011.

**VII. FINDINGS OF FACT:**

- 1) Dental Services Manual § 505.8 (Exhibit D-1) states in pertinent part:

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.

...

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. full cusp Class II malocclusion with demonstrable impinging overbite into the palate).

- 2) A request for prior authorization for approval of orthodontic services for Claimant was submitted by [REDACTED] DDS, to the West Virginia Medical Institute (WVMI) on January 5, 2011. (Exhibit D-2.) On the “Complete Diagnosis” section of the request, it is written, “Class II molar, Class I canine deep bite, [with] 4.1 [millimeter] lower crowding and excessive overjet. Class I skeletal orthognathical vertical upper incisors are retroclined [and] lowers are proclined.” On page 2 of the request, the “Information Required for Assessing Handicapping Malocclusion Section” reports that Claimant had an overjet of 5 millimeters, an overbite of 100%, the Molar Relationship is rated at Class II for both the left and right side, the Skeletal Relationship is checked at level I, there are no missing or impacted teeth, a 4.1 millimeter crowding for the mandibular teeth, no cleft palate, no crossbites, no open bites, and nothing written in the “Comments” section.
- 3) A denial notification letter (Exhibit D-3) was issued by the Department on January 11, 2011 which stated, “Documentation provided does not indicate medical necessity . . .”
- 4) Department’s witness and orthodontic consultant for the WV Medical Institute testified that an overjet of 5 millimeters is less than the program requirement that the overjet be at least 7 millimeters. He testified that Claimant’s overbite was at 100%. He stated that in order to be medically eligible for orthodontics, the overbite would have to be 100% with palatal impingement, meaning that the lower front teeth must go up behind the upper front teeth and touch the tissue in the palate, causing discomfort. He stated that the 100% overbite did meet the requirements, but there was no documentation as to palatal impingement. He testified that the Class II molar relationship would only meet the program requirements if Claimant’s dentist had documented that it was a “full-cusp” Class II relationship. He added that crowding is excluded by policy as something that can be treated as a medical necessity.
- 5) Claimant’s representative and stepmother testified that Claimant’s teeth are overcrowded and she has an overbite. She stated that she has observed Claimant’s teeth seem to be getting worse. She added that she would like to get her stepdaughter’s dental problems corrected in order to help lift her self-esteem. She did not provide substantial rebuttal to the Department’s evidence and testimony.

## **VIII. CONCLUSIONS OF LAW:**

- 1) The medical evidence presented failed to show a severe dento-facial deformity as required by policy. Claimant’s overjet of 5 millimeters is not severe enough to be considered a dento-facial deformity. Her overjet of 100% does meet the policy guidelines but there is no documentation of palatal impingement. Her Class II molar relationship does not meet the policy guidelines because there is no documentation that it is a full-cusp Class II relationship.
- 2) Claimant does not meet the criteria for the medical necessity of orthodontic services.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny prior authorization for 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 May 2011.**

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**Stephen M. Baisden  
State Hearing Officer**