



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

July 1, 2011

-----for -----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your son's hearing held June 24, 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: 11-BOR-952

**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 July 1, 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 June 24, 2011 on a timely appeal, filed April 11, 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:

-----, Claimant
-----, Claimant's representative
Virginia Evans, 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] [REDACTED] D.M.D., M.S., dated February 28, 2011
- D-3 Notice of Denial for Dental Services, dated March 2, 2011

VII. FINDINGS OF FACT:

- 1) On February 28, 2011, 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 March 2, 2011 (Exhibit D-3). The reason for denial was provided in this notice as follows, in pertinent part:

Documentation provided does not indicate medical necessity – specifically:

Denied criteria not met for D8090 and D8680. The overbite and overjet are within normal limits.

- 2) Virginia Evans, 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 D8090 and D8680, listed on the denial notice (Exhibit D-3), are listed in Appendix A of the same manual as "comprehensive orthodontic treatment of the adult 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 5mm, and that the minimum overjet to establish medical necessity is 7mm. He testified that the Claimant's overbite was listed as 0%, and that the guideline of 100% with palatal impingement was not met from his review. He noted that the Claimant's diagnosis is a class 2 malocclusion, and testified that this means that the Claimant's teeth are behind the ideal position; however, to meet the guidelines, this needed to be a full cusp malocclusion, and it was not, according to his review of the models. He testified that the information provided does not meet the medical necessity requirements for orthodontia.
- 4) -----, the Claimant's mother, testified that the Claimant's doctor told her they would have to break the Claimant's jaw if the orthodontia could not be approved. Dr. Taylor testified that his decision was not based on potential future treatments, but on the criteria for this treatment, and that the criteria were not met.

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 July, 2011.

**Todd Thornton
State Hearing Officer**