



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Earl Ray Tomblin
Governor

Board of Review
203 East Third Avenue
Williamson, WV 25661

Rocco S. Fucillo
Cabinet Secretary

August 27, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 24, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization of orthodontic services for your daughter -----.

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. These regulations provide that orthodontic services are covered on a limited basis for Medicaid members less than 21 years of age, whose malocclusions create disabilities and impair 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 Hearing Officer to **uphold** the action of the Department to deny orthodontic services for -----.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Stacy Broce, WV Bureau of Medical Services

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

BOARD OF REVIEW

IN RE: -----,

Claimant,

v.

ACTION NO: 12-BOR-1674

**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 for ----- . This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing was convened on August 24, 2012 on a timely appeal filed May 29, 2012.

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's Representative and mother

Virginia Evans, WV Bureau of Medical Services, Department's Representative
Chris Taylor, DDS, Orthodontic Consultant to the WV Medical Institute, Department's Witness

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:

WV DHHR 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 from -----, DDS, dated May 2, 2012.
- D-3 Denial Notification Letters dated May 8, 2012.

VII. FINDINGS OF FACT:

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

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 Utilization Management Contractor (UMC) reviews all request 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.

When a request for service is denied based on medical necessity, the denial is communicated with the reason(s) of denial to the provider of services and the member or their legal guardian by the UMC.

- 2) A request for prior authorization for approval of orthodontic services for Claimant was submitted by -----, DDS, to the West Virginia Medical Institute (WVMI) on May 2, 2011. (Exhibit D-2.) On the "Complete Diagnosis" section of the request, it is written, "Convex Profile – Skeletal Class III malocclusion – Dental Class I malocclusion – Upper midline off to the right – OJ-3-4mm – 75% Deep bite – Good hygiene – Maxillary spacing – [Mandibular]=2-4mm crowding – 3rd molars forming."
- 3) A denial notification letter (Exhibit D-3) was issued by the Department on May 8, 2012, which stated, "Documentation provided does not indicate medical necessity, specifically . . . Patient's molars do not show a full cusp class III."
- 4) Department's witness, an orthodontic consultant for the WVMI, testified that the diagnoses listed on the prior authorization request (Exhibit D-2) do not meet the medical necessity criteria. He testified that the request from the orthodontist consists of two pages. Page one is a brief written report of the Claimant's dental measurements, and page two is the Authorization Request Form wherein the requesting orthodontist indicates the criterion or criteria upon which he or she bases the request for services. He stated that on the Authorization Request Form (Exhibit D-2, page 2), in the section labeled "Must meet at least one of the following criteria," the orthodontist has checked, "Full cusp classification from normal" and circled "Class III." However, he stated, on the written report, (Exhibit D-2, page 1) the orthodontist has noted, "Dental Class I malocclusion." He stated that "Class I" indicates that the upper and lower teeth are in a normal alignment relationship. He testified that he reviewed the X-rays, photographs and models the orthodontist's office included with the request for services, and he observed that the Claimant's upper and lower teeth were in a normal, Class I position, which does not meet the criteria for Medicaid orthodontic services. He added that the "Full cusp classification from normal" criterion was the only one the orthodontist selected on the Prior Authorization Request Form.
- 5) Claimant's representative, her mother, stated that she did not fully understand all of the dental and medical concepts and terminology concerning her daughter's dental situation, but she was very concerned about her daughter's dental health and wanted to obtain orthodontic services for her. She stated that her daughter complained of dental pain at times, and this was an area of concern for her. She stated that she could see her daughter's teeth were not in the proper alignment and were crowded, and this was another area of concern. She did not provide substantial rebuttal to the Department's evidence and testimony.

VIII. CONCLUSIONS OF LAW:

The submitted medical evidence failed to demonstrate a dental issue that meets the criteria for Medicaid orthodontics guidelines. Claimant's orthodontist indicated on the Authorization Request Form that Claimant had a "full cusp classification from normal" and a Class III malocclusion, but on the accompanying written report, indicated that Claimant had a Class I, or normal, dental malocclusion. Further, Department's Witness reviewed the accompanying models, photographs and X-rays, and agreed that Claimant's upper and lower teeth were in a Class I or normal alignment.

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 27th day of August 2012.

**Stephen M. Baisden
State Hearing Officer**