



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

January 3, 2012

-----For: -----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 2, 2011. 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 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 NO: 11-BOR-2117

**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 3, 2012 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 December 2, 2011 on a timely appeal filed October 5, 2011.

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
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:

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 [REDACTED] DDS, dated September 15, 2011.

D-3 Denial Notification Letters dated September 26, 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 September 15, 2011. (Exhibit D-2.) Attached to the request was a document from Dr. [REDACTED] office labeled "Patient Findings." On the "Initial Findings" section of this document is written as follows:

Patient's Chief Complaint	Crowding
Classification	Class II, division 1
Dentition Stage	Mixed dentition
Arch Discrepancies	Moderate upper and lower crowding (4-6 mm)
Overbite	Moderately deep overbite (25-50%)
Overjet	Moderately excessive overjet (4-6 mm)
Crossbite	Posterior crossbite on the left
Skeletal Evaluation	Retrognathic lower structures

- 3) A denial notification letter (Exhibit D-3) was issued by the Department on September 26, 2011 which stated, "Documentation provided does not indicate medical necessity, specifically . . . Patient's malocclusion does not meet any of the criteria for treatment to be covered by [the Bureau for Medical Services]. The single posterior crossbite is not one of the criteria."
- 4) Department's witness and orthodontic consultant for the WV Medical Institute testified that the diagnoses listed on the "Patient Findings" attachment to the prior authorization request (Exhibit D-2) do not meet the medical necessity criteria. He testified that crowding is not a criterion for approval of orthodontic services. He testified a Class II malocclusion must be full cusp in order to meet the criteria. He stated that the diagnosis lists a moderately deep overbite of 25% to 50%, which is a normal overbite measurement. He stated that Dr. [REDACTED] measured an overjet of four to six millimeters, but policy dictates that the overjet must be in excess of seven millimeters. He testified that the dentist documented a crossbite in a single upper bicuspid, but in order to meet the criteria, he would need to document crossbites involving multiple teeth, including at least one molar. He stated that the skeletal evaluation of retrognathic lower structures means that Claimant's lower teeth were somewhat behind the ideal alignment, but the criteria state that it has to be a full-cusp misalignment. The documentation does not indicate that the misalignment is that severe.
- 5) Claimant's representative and mother stated that her daughter's dentist told her Claimant needed to wear braces for approximately two years, and she hoped to obtain these services for her. 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 Class II molar relationship does not meet the policy guidelines because there is no documentation that it is a full-cusp Class II relationship. Her overjet of four to six millimeters does not meet the policy guidelines of seven millimeters. Her overbite of 25% to 50% is a normal measurement of front tooth alignment. Her crossbite involves only a single tooth, which is not a molar.
- 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 3rd day of January 2012.

Stephen M. Baisden
State Hearing Officer