



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

March 5, 2012

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

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held March 2, 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 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-2470

**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 5, 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 March 2, 2012 on a timely appeal filed November 18, 2011. This hearing was originally scheduled for February 3, 2012, but was rescheduled at Claimant's request.

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 Kevin M. Conde, DDS, dated November 3, 2011.
- D-3 Denial Notification Letters dated November 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 November 3, 2011. (Exhibit D-2.) On the “Complete Diagnosis” section of the request, it is written, “Deep bite – Class I malocclusion – moderate crowding.” Page two of the request form contains a list of criteria, one of which must be met in order for WVMI to approve the services. The person who completed the form has selected, “Palatal impingement of lower incisors into the palatal tissue causing tissue trauma.”
 - 3) A denial notification letter (Exhibit D-3) was issued by the Department on November 11, 2011 which stated, “Documentation provided does not indicate medical necessity, specifically . . . patient’s records do not show palatal impingement of incisors into the palatal tissue.”
 - 4) Department’s witness and 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 “Class I malocclusion” is a term that refers to how the upper and lower six-year molars bite together with each other, and a Class I malocclusion is normal. He added that the request form from Dr. [REDACTED] did not document a palatal impingement of the lower incisors into the soft tissues behind the upper incisors.
 - 5) Claimant’s representative and mother stated that her daughter’s dentist told her Claimant needed to wear braces. She stated that she trusted the dentist’s judgment, and if he said her daughter needed braces, then she needed them. She did not provide substantial rebuttal to the Department’s evidence and testimony.

VIII. CONCLUSIONS OF LAW:

- 1) The submitted medical evidence failed to show a severe dento-facial deformity as required by policy. Claimant’s Class I molar relationship does not meet the policy guidelines because a Class I relationship is normal. The preauthorization request did not document the palatal impingement of the lower incisors into the soft tissue behind the upper front teeth.
- 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 5th day of March 2012.

**Stephen M. Baisden
State Hearing Officer**