State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

February 17, 2012

----------for

Dear ----------:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held February 17, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny prior authorization for Medicaid coverage of your son's orthodontic services.

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 Medicaid Program services is determined based on current regulations. One of these regulations states that the Department's Utilization Management Contractor (UMC) reviews prior authorization requests for dental/orthodontia services to determine medical necessity. 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. (WVDHHR Dental Services Manual Chapter 505, Section 505.8)

Information submitted at the hearing fails to demonstrate that your son's requested orthodontic services are medically necessary.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for Medicaid coverage of orthodontic services.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Amy Workman, BMS

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

BOARD OF REVIEW

IN RE: ----------,

Claimant,

v. ACTION NO.: 11-BOR-2545

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 February 17, 2012.

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's mother and Representative
Stacy Hanshaw, Bureau for Medical Services, Department's Representative
Chris Taylor, DDS, Dental Consultant, West Virginia Medical Institute

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its action to deny the Claimant's request for prior authorization for Medicaid coverage of orthodontic services.

V. APPLICABLE POLICY:

WVDHHR Dental Services Manual, Chapter 505, Section 505.8

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 WVDHHR Dental Services Manual, Chapter 505, Section 505.8
D-2 BMS/UMC Comprehensive Orthodontic Treatment Prior Authorization Request Form
D-3 Notices of Denial from West Virginia Medical Institute dated September 26, 2011

VII. FINDINGS OF FACT:

1) [redacted] DDS, submitted a Request for Prior Authorization for Comprehensive Orthodontic Treatment Form (D-2) to West Virginia Medical Institute (WVMI) on the Claimant's behalf on or about September 19, 2011.

2) On September 26, 2011, the Department, through WVMI, sent Notices of Denial for Dental Services (D-3) to both the Claimant and Dr. [redacted] These notices state, in part:

> A request for prior authorization was submitted for dental services. Based on the medical information provided, the request has been denied.
>
> Reason for Denial: Orthodontia – Documentation provided does not indicate medical necessity – specifically: Denied for the following: Anterior crossbite is only one teeth [sic]. Criteria requires two teeth crossbites. The maxillary cuspids are unerupted at age vs [versus] impacted.

3) WVMI Dental Consultant, Chris Taylor, DDS, reviewed radiographs, dental molds, photos, a report (D-2) and a criteria form (D-2) from Dr. [redacted] and testified that he determined based on the information presented for review that the Claimant does not meet any of the required criteria for approval of prior authorization for orthodontia services.

Dr. Taylor stated that the report (D-2) from Dr. [redacted] shows that the Claimant is diagnosed with a Class I malocclusion with a skeletal Class III tendency. He explained that a Class I malocclusion is normal and that the skeletal Class III tendency is not considered because it has not yet occurred.

Also diagnosed (D-2) by Dr. [redacted] is severe crowding with upper left canine impaction. Dr. Taylor explained that he determined the tooth in question is in a good position to come in at an age appropriate time of between 11 and 13 years of age and there is no indication it is impacted. The Claimant is 9 years of age.

Dr. [redacted] also diagnosed (D-2) convex profile with hyper divergent MP, which Dr. Taylor explained refers to aesthetics and is not covered.

Dr. [redacted] also diagnosed (D-2) retro cline upper and lower incisors which Dr. Taylor explained are related to crowding and crossbite.

4) The Criteria Form (D-3) lists the criteria for meeting the Department's policy for prior authorization approval for orthodontia. Dr. Taylor represents that to meet Medicaid authorization requirements - the Claimant must be found to have at least one of the following:

* Overjet in excess of 7mm
* Severe malocclusion associated with dento-facial deformity
* True anterior open bite
* Full cusp classification from normal (Class II or Class III)
* Palatal impingement of lower incisors into the palatal tissue causing tissue trauma
* Cleft palate, congenital or developmental disorder
* **Anterior crossbite (2 or more teeth and in cases where gingival stripping from the crossbite is demonstrated and not correctable by limited orthodontic treatment**
* Unilateral posterior crossbite with deviation or bilateral posterior crossbite involving multiple teeth including at least one molar
* True posterior open bite (Not involving partially erupted teeth or one or two teeth slightly out of occlusion and not correctable by habit therapy)
* **Impacted teeth (excluding 3rd molars) cuspids and laterals only**

5) Dr. [redacted] indicated on the Criteria Form (D-2) that he believes the Claimant meets the criteria under the category of - "Anterior crossbite (2 or more teeth and in cases when gingival stripping from the crossbite is demonstrated and not correctable by limited orthodontic treatment." Dr. Taylor stated that he viewed only one (1) tooth meeting this description and saw no gingival stripping.

Dr. [redacted] also indicated on the Criteria Form (D-2) that he believes the Claimant meets the criteria under the category of – "impacted teeth (excluding 3rd molars) cuspids and laterals." Dr. Taylor stated that the tooth in question is judged by him to be an unerupted tooth and not yet impacted.

6) The Claimant's mother, ----------, testified that she is concerned that her son's tooth will "chip" and that the teeth will "go bad." She further stated, however, that after hearing Dr. Taylor explain the criteria and why he believes her son does not meet the criteria to receive prior authorization for orthodontia at this time, she does not have anything further to add. She stated that she will speak with his dentist to determine if things have changed since September 2011 when this request for prior authorization approval was submitted.

7) WVDHHR Dental Services Manual, Chapter 505, Section 505.8, Prior Authorization (D-1), states:

> 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. Prior authorization request forms are available at the BMS' Utilization Management Contractor (UMC) website www.wvmi.org/corp/web_sites/links_wvmedicaid.aspx. Prior authorization does not guarantee approval or payment.
>
> The UMC reviews all requests 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. The treating practitioner is responsible to assure the assigned prior authorization number is documented on the appropriate claim form when submitting the claim for payment consideration. Refer to *Common Chapter 800, General Administration*, for additional information.
>
> 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 service and the member or their legal guardian by the UMC. Information related to the member's right to a fair hearing and the provider's right to a reconsideration of the denial is included in the communication.

VIII. CONCLUSIONS OF LAW:

1) Medicaid policy states that the Department's Utilization Management Contractor (UMC) reviews prior authorization requests for dental/orthodontia services to determine medical necessity. 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.

2) Evidence submitted at the hearing fails to demonstrate that the Claimant meets medical necessity criteria for prior authorization of Medicaid covered orthodontic treatment. The Claimant's dentist did not provide information supportive of the Claimant meeting any of the required criteria for approval.

3) The Department acted correctly in denying the Claimant's request for prior authorization for Medicaid payment of orthodontic services.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the Claimant's request for prior authorization of Medicaid covered orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of February, 2012.

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Cheryl Henson
State Hearing Officer