



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

**Board of Review**  
P.O. Box 1736  
Romney, WV 26757

**Earl Ray Tomblin**  
**Governor**

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

February 7, 2012

-----for -----

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held February 3, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny your daughter's prior authorization request for Medicaid payment of 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 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 other appropriate criteria approved by Bureau of Medical Services (BMS). A request for prior authorization is reviewed by the Utilization Management Contractor (UMC). 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 service and the member or their legal guardian by the UMC. (Bureau for Medical Services Provider Manual, Chapter 505, §505.8)

The information which was submitted at your daughter's hearing failed to demonstrate that orthodontic services are medically necessary.

It is the decision of the State Hearing Officer to Uphold the action of the Department in denying your daughter's request for prior authorization of Medicaid payment for orthodontic services.

Sincerely,

Eric Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Amy Workman, Bureau of Medical Services

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW**

**IN RE:**       -----,

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-2585**

**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 the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on a timely appeal, filed December 12, 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's mother  
Virginia Evans, DHHR Specialist-Bureau for Medical Services  
Christopher Taylor, D.D.S., Orthodontic Consultant for Bureau for Medical Services (BMS)

Presiding at the hearing was Eric L. Phillips , State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to deny the Claimant's prior authorization request for Medicaid payment of orthodontic services.

**V. APPLICABLE POLICY:**

WV Medicaid Provider Manual, Chapter 505 (Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services), Section 505.8 (Prior Authorization)

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 WV Medicaid Provider Manual, Chapter 505 (Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services), Section 505.8 (Prior Authorization)
- D-2 Request for Prior Authorization for Comprehensive Orthodontic Treatment and Information from [REDACTED] D.M.D dated October 31, 2011
- D-3 Notice of Denial for Dental Services dated November 9, 2011

**VII. FINDINGS OF FACT:**

- 1) On October 31, 2011, [REDACTED] D.M.D completed Exhibit D-2, Request for Prior Authorization for Comprehensive Orthodontic Treatment on behalf of the Claimant and submitted it to the West Virginia Medical Institute (WVMI). This request was completed to determine medical necessity for prior authorization of Medicaid payment for the Claimant's orthodontic services.
- 2) On November 9, 2011, the Claimant and [REDACTED] D.M.D., were issued Exhibit D-3, Notice of Denial for Dental Services. This notice documents in pertinent 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: After review of the orthodontic services requested the consultant denied due to:

1. Doesn't meet any criteria set by BMS
2. Crossbite are within normal limits

Additionally, [REDACTED] [REDACTED] D.M.D's Notice of Denial documents that a written reconsideration of the determination could be submitted to WVMI with 60 days of receipt of the corresponding notice.

- 3) Christopher Taylor, D.D.S.-Orthodontic Consultant for the Bureau of Medical Services reviewed Exhibit D-2 and explained how the medical findings relate to established policy. The Claimant's orthodontist documented a complete diagnosis in the request for prior authorization (Exhibit D-2) as, "Class 1 skeletal, Class 2 subdivision right malocclusion, OJ=3 mm, OB 4 mm or 80%. Buccal crossbite of left first premolars, misaligned incisors, excess cos, mand

medline 2 mm to right. [sic]" Additionally, the Claimant's orthodontist requested comprehensive orthodontics to, "level, align, open anterior occlusions, correct left buccal crossbite, coordinate arches, finish detail and retain." According to Dr. Taylor, in order for prior authorization for Medicaid payment to be approved, the individual must meet one of the ten established criteria as listed in Exhibit D-2. These ten criteria include:

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

Dr. Taylor indicated that the Claimant's malocclusions and degree of overjet did not meet the specific criteria set forth by the Bureau of Medical Services.

- 4) -----, the Claimant's mother testified that her daughter had treatment, which included braces, on her front teeth for nine months. ----- indicated that this treatment was removed to allow her child's adult teeth to grow. ----- indicated that the addition the child's adult teeth have led to a regression of the teeth from the previously administered treatment.
- 5) WV Medicaid Provider Manual, Chapter 505 (Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services), Section 505.8 (Prior Authorization) documents 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 researched-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.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy stipulates that prior authorization is reviewed by the Utilization Management Contractor (UMC) and 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 service and the member or their legal guardian by the UMC.
- 2) Testimony and evidence presented during the hearing reveals that the Claimant's condition at the time of the request for prior authorization failed to demonstrate medical necessity for orthodontic services. Therefore, the Department was correct in its decision to deny the Claimant's prior authorization request for Medicaid payment of orthodontic services.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the action of the Department to deny the Claimant's prior authorization request for Medicaid payment of orthodontic services.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of February , 2012.**

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**Eric L. Phillips**  
**State Hearing Officer**