



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

April 26, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 6, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization of orthodontic services for your son -----.

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
Alva Page III, Esq., WV Bureau of Medical Services

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

---- ----,

Claimant,

v.

ACTION NO: 12-BOR-636

**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 April 26, 2012 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 April 6, 2012 on a timely appeal filed January 27, 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 videoconference and 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 November 14, 2011.
- D-3 Denial Notification Letters dated November 19, 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 ----, DDS, to the West Virginia Medical Institute (WVMI) on November 14, 2011. (Exhibit D-2.) On the "Complete Diagnosis" section of the request, it is written, "Convex Profile – Skeletal Class I malocclusion – Dental Class I malocclusion – OJ-1-2mm – 50% Deep bite (Tissue impingement) – Missing teeth (All 1st molars) – Good hygiene – Maxillary spacing – [Mandibular] spacing – 3rd molars forming."
 - 3) A denial notification letter (Exhibit D-3) was issued by the Department on November 19, 2011 which stated, "Documentation provided does not indicate medical necessity, specifically . . . 1) The patient's malocclusion does not meet any of the criteria for treatment to be covered by BMS. 2) No criteria were marked."
 - 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 stated that the term "OJ" in the request refers to overjet, and Claimant would require an overjet of 7 millimeters in order to meet the criteria. He stated that the term "50% Deep bite (tissue impingement)" means that the lower front teeth are touching the tissue of the upper mouth and causing damage, and this does meet the criteria for orthodontic services. However, he stated, he looked at the models and x-rays included in the request from Dr. ----, and he disagreed that palatal impingement was present. He added that the other conditions mentioned, the missing teeth, the maxillary and mandibular spacing, and the third molars or wisdom teeth, are not criteria considered in a request for orthodontic services.
 - 5) Claimant's representative and mother stated that her son's missing molars could cause stomach problems in the future because they affected his ability to chew his food completely. She stated that this was why her son's dentist recommended braces. 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 skeletal and dental relationship does not meet the policy guidelines because a Class I relationship is normal. The preauthorization request indicated that Claimant's dentist did diagnose palatal impingement of the lower front teeth into the soft tissue behind the upper front teeth; however, Department's witness testified that the dental models and x-rays included in the request for services did not support this diagnosis. The overjet listed on the preauthorization request was less than the criterion of 7 millimeters.
- 2) Claimant's request 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 26th day of April 2012.

**Stephen M. Baisden
State Hearing Officer**