



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

Karen L. Bowling  
Cabinet Secretary

August 11, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-1916

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Angela Signore, WV Bureau for Medical Services

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

██████████,

**Appellant,**

v.

**Action Number: 16-BOR-1916**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision 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 August 4, 2016, on an appeal filed May 16, 2016.

The matter before the Hearing Officer arises from the February 26, 2016, decision by the Respondent to deny Medicaid payment of orthodontic services for the Appellant.

At the hearing, the Respondent appeared by ██████████, DDS, Orthodontic Consultant for the WV Bureau for Medical Services. The Appellant, a minor, appeared *pro se* by his father ██████████. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 WV Medicaid Provider Manual Chapter 505 – Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services - §§505.8 and 505.9
- D-2 WV Medicaid Prior Authorization Form, blank
- D-3 Series of facial and intraoral photographs and x-rays of Appellant
- D-4 Notices of Denial dated February 26, 2016

**Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

### **FINDINGS OF FACT**

- 1) The Appellant's orthodontist, [REDACTED], DDS, submitted a request for prior authorization of Medicaid payment for orthodontic services to the Department on February 23, 2016 (Exhibit D-4).
- 2) The Department issued a Notice of Initial Denial (Exhibit D-4) on February 26, 2016, notifying Appellant that the medical information submitted with the request did not meet medical necessity criteria.
- 3) The Appellant's father appealed the Department's denial of the prior authorization request. The Department also denied the appeal.
- 4) The Appellant's representative, his father, requested a fair hearing to dispute the denial of prior authorization for orthodontic services on his son's behalf.

### **APPLICABLE POLICY**

The WV Medicaid Provider Manual §505.8 reads that certain dental procedures require prior authorization, regardless of the place or nature of the service.

WV Medicaid Dental Services Prior Authorization Form (Exhibit D-2) lists ten criteria, any one of which a request for orthodontic services must meet in order for the request to be approved. The criteria are:

- An overjet in excess of 7 millimeters;
- A severe malocclusion associated with dento-facial deformity;
- A true anterior open bite;
- A 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 (two or more teeth, 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); or
- Impacted teeth (excluding third molars) cuspids and laterals only.

### **DISCUSSION**

The Appellant's father requested this fair hearing because the Department denied a request on his son's behalf for orthodontic services. The Department's representative testified that the Appellant's request for orthodontic services included photographs and X-rays of the Appellant's

teeth, which demonstrated that the Appellant did not meet the medical necessity criteria in order to approve Medicaid payment for the services.

The Department's representative, the orthodontic consultant who evaluated the request for services, testified that the measurements of the Appellant's teeth indicated his dental misalignment was not so severe that the orthodontic services were a medical necessity. She testified that the Appellant could benefit from the orthodontic treatment, but that the measurements did not indicate the treatment was a medical necessity.

The Appellant's representative testified that as certain molars descend into the back of his son's gums, they are increasing the overjetting which is already present. He testified that his son is experiencing mouth pain due to his dental situation. He added that his greatest concern is having his son's oral situation addressed, based on the recommendations of his son's pediatric dentist and his orthodontist.

Because the Appellant's orthodontist submitted his request for services electronically, there was no evidence from the Department to indicate the specific measurements related to his dental misalignment. However, the Appellant's representative did not provide evidence to contradict the Department's position that the Appellant did not meet the medical necessity criteria.

The Appellant did not meet the medical necessity criteria to qualify for orthodontic services.

### **CONCLUSION OF LAW**

Whereas medical necessity of orthodontic services could not be established based on the medical information submitted for prior authorization, the Department was correct to deny prior authorization for orthodontic services, pursuant to the WV Medicaid Provider Manual §§505.8 and 505.9 and the medical criteria listed on the WV Medicaid Dental Services Prior Authorization Form.

### **DECISION**

It is the decision of the State Hearing officer to **uphold** the denial of Medicaid payment of orthodontic services for Appellant.

**ENTERED this 11<sup>th</sup> day of August, 2016**

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**Stephen M. Baisden**  
**State Hearing Officer**