



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1247
Martinsburg, WV 25402

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

November 22, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] a minor child v. WV DHHR
ACTION NO.: 16-BOR-2723

Dear [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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Bureau for Medical Services

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2723

**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 ██████████, a minor child. 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 November 17, 2016, on a timely appeal filed September 22, 2016.

The matter before the Hearing Officer arises from the September 8, 2016 decision of the Respondent to deny the Appellant's pre-authorization request for orthodontia services.

At the hearing, the Respondent appeared by Richard Ernest, Program Manager, Bureau for Medical Services (BMS). Appearing as a witness for the Respondent was Dr. Christopher Taylor (Dr. Taylor), Orthodontic Consultant for BMS. The Appellant appeared by his mother, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV Medicaid Provider Manual §505
- D-2 Blank WV Medicaid Prior Authorization Form
- D-3 Information received for medical necessity evaluation request for orthodontia services, dated September 6, 2016
- D-4a Notice of Initial Denial, dated September 8, 2016
- D-4b Appeal Letter-Adverse Determination Decision, Final Denial, dated May 3, 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) A request for prior authorization of Medicaid payment for orthodontic services was submitted to the Respondent on September 6, 2016, by [REDACTED] (Exhibit D-3)
- 2) The Respondent issued a Notice of Initial Denial on September 8, 2016, notifying the Appellant that the medical information submitted with the request did not meet medical necessity criteria. (Exhibit D-4)
- 3) The Appellant has an overjet of 4 mm and a 5 mm overbite without palatal impingement, which do not meet the medical necessity criteria for Medicaid preauthorization for orthodontia services.

APPLICABLE POLICY

WV Bureau for Medical Services Provider Manual §505.1 states that orthodontic services for children up to 21 years of age must be medically necessary and require prior authorization before services are provided.

WV Bureau for Medical Services Provider Manual §505.8 instructs that the 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 OR other appropriate criteria approved by BMS. Prior authorization does not guarantee approval or payment.

DISCUSSION

Respondent's witness, Dr. Taylor, examined the documents submitted by the Appellant's orthodontist. He testified that the request for prior authorization for orthodontia was denied based on a failure to meet the medical necessity criteria. Dr. Taylor referred to Exhibit D-3, indicating that the request for prior authorization of orthodontia was based on an overbite with palatal impingement. He stated that in order to meet medical necessity criteria, an overbite must be causing tissue trauma, which was not found in the submitted x-rays and photos. Dr. Taylor testified that he assessed the other criteria upon which medical necessity may be established, but found that the Appellant did not meet any of the other criteria.

The Appellant's mother questioned Dr. Taylor regarding the Appellant's 4 mm overjet and anticipated crowding issues due to the Appellant's small stature. Dr. Taylor indicated that in order to meet medical necessity criteria, the overjet must be in excess of 7 mm. He also noted that crowding and spacing issues are not criteria which determine medical necessity. The Appellant's mother stated she understands that the Appellant does not meet the Medicaid criteria for pre-authorization of the orthodontia, but thought that since her private pay insurance was paying for half of the cost, that Medicaid would pay the other half.

CONCLUSION OF LAW

Whereas medical necessity of orthodontic services could not be established based on the medical documentation submitted for review, Respondent's decision to deny orthodontic services is affirmed.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's proposal to deny pre-authorization for orthodontia services.

ENTERED this 22nd day of November 2016.

Lori Woodward, State Hearing Officer