



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

July 20, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1834

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-1834

**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 July 14, 2016, on a timely appeal filed May 3, 2016.

The matter before the Hearing Officer arises from the May 3, 2016 decision of the Respondent to deny the Appellant's pre-authorization request for orthodontia services.

At the hearing, the Respondent appeared by Anita Ferguson, Bureau for Medical Services. Appearing as a witness for the Respondent was Dr. ██████████ (Dr. ██████████), Orthodontic Consultant, Bureau for Medical Services (BMS). The Appellant appeared by her 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 March 21, 2016
- D-4a Notice of Action, dated March 23, 2016
- D-4b Appeal Letter-Adverse Determination Decision, Final Denial, dated May 3, 2016

Appellant's Exhibits:

- A-1 Unsigned, unaddressed, form-type letter, dated July 5, 2016
- A-2 Photocopy of x-rays
- A-3 Printout 14-11 from ██████████, dated June 16, 2016

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 March 21, 2016, by [REDACTED], D.M.D., M.S.
- 2) The Respondent issued a Notice of Action on March 23, 2016, notifying the Appellant that the medical information submitted with the request did not meet medical necessity criteria. (Exhibit D-4a)
- 3) The Appellant has a Class I skeletal and Class I malocclusion with an overjet of 1 -2 mm, an overbite of 6 mm with near palatal impingement, maxillary and mandibular overcrowding, and an ectopic eruption. (Exhibit D-3)

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. [REDACTED] testified that the request for orthodontia was denied based on failure to meet medical necessity criteria. Dr. [REDACTED] referred to Exhibit D-3, indicating that the request for prior authorization of orthodontia was based on the listed diagnoses of a Class I skeletal and malocclusion, an overjet of 1-2 mm, an overbite of 6 mm with near palatal impingement, maxillary and mandibular overcrowding, and an ectopic eruption. Dr. [REDACTED] indicated that the Appellant's condition was not severe enough to establish medical necessity. He stated that in order to meet medical necessity criteria, a full cusp Class II malocclusion or an overjet in excess of 7 mm, and an overbite must be causing true tissue trauma and not "near palatal impingement" was needed. Dr. [REDACTED] also noted that

the Appellant's undersized maxillary lateral incisors and crowding issues did not meet the medical necessity criteria.

The Appellant's mother testified that the Appellant has issues with cheek-biting, and has needed a retainer for a cross-bite in the past. She stated she understands that the Appellant does not meet the state criteria for pre-authorization of the orthodontia, but cannot afford to pay for the orthodontia herself.

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 20th Day of July 2016.

Lori Woodward, State Hearing Officer