



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV 25313

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

July 18, 2017

[REDACTED]

RE: [REDACTED], A JUVENILE, v. WV DHHR
ACTION NO.: 17-BOR-1897

Dear Ms. [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,

Natasha Jemerison
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**

█, A JUVENILE,

Appellant,

v.

Action Number: 17-BOR-1897

**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 JUVENILE. 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 11, 2017, on an appeal filed May 19, 2017.

The matter before the Hearing Officer arises from the May 9, 2017, decision by the Respondent to deny Medicaid payment of orthodontic services for the Appellant.

At the hearing, the Respondent appeared by Richard Ernest, WV Bureau for Medical Services. Appearing as a witness for the Department was █, DDS, orthodontic consultant for the WV Bureau for Medical Services. The Appellant, a juvenile, appeared *pro se* by his mother █. 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
- D-2 WV Medicaid Prior Authorization Form, blank
- D-3 Diagnostic Summary with facial and intraoral photographs and x-rays of the Appellant
- D-4 Notice of Denial, dated May 9, 2017

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 to correct the Appellant's "palatal impingement causing tissue trauma."
- 2) The Appellant's dental photographs and x-rays did not support the details on the Appellant's dental analysis. (D-3)
- 3) On May 9, 2017, the Department issued a Notice of Denial to the Appellant, because the Appellant's records, photographs and x-rays did not support the diagnosis of palatal impingement. (D-4)
- 4) The Appellant's mother requested a fair hearing to dispute the denial of prior authorization for orthodontic services on her 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 mother requested this fair hearing on her son's behalf because the Department denied a request 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 WV Medicaid Provider Manual explains that certain dental procedures require prior authorization, regardless of the place or nature of the service. WV Medicaid Dental Services Prior Authorization Form provides a list of criteria, in which at least one (1) must be met in order for the request for orthodontic services to be approved.

The Department's witness, the orthodontic consultant who evaluated the request for services, testified that the Appellant's upper front teeth overlap the lower front teeth, but not 100% as stated on the Appellant's dental analysis. He testified that the Appellant's lower teeth can be seen on the photographs, and the photographs did not show any tissue damage on the Appellant's palate. He added that the x-rays did not show the full details of the Appellant's overbite. Because of this, he called the referring physician's office and verified that the Appellant's records did not indicate the Appellant had tissue trauma.

The Appellant's representative testified that her son's orthodontist informed her the Appellant had tissue trauma which guaranteed approval for prior authorization. She added that the Appellant has autism, and it was difficult for him to understand how to position his jaw to take accurate x-rays and photographs.

The Department's witness responded that he made his decision to deny the request based on the information the Appellant's dentist sent him. He testified that the photographs and x-rays did not show tissue trauma had taken place, but he stated he also called to verify the Appellant's records showed no indication of tissue trauma. He suggested that if the Appellant's representative disagreed with the information that was provided, the Appellant should return to his orthodontist/dentist to have the Appellant's records updated with the tissue trauma photographed and then have his dentist submit another request.

The request for orthodontic services listed palatal impingement causing tissue trauma as the reason for the orthodontic services request. However, the accompanying documentation did not demonstrate palatal tissue damage as the result of impingement. 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 18th day of July, 2017

**Natasha Jemerison
State Hearing Officer**