



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County District
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

November 13, 2018

[REDACTED]

RE: [REDACTED], A JUVENILE v. WV DHHR
ACTION NO.:18-BOR-2503

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,

Kristi Logan
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 AND HUMAN RESOURCES
BOARD OF REVIEW**

■, A JUVENILE,

Appellant,

v.

Action Number: 18-BOR-2503

**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 November 7, 2018.

The matter before the Hearing Officer arises from the September 13, 2018 decision by the Respondent to deny prior authorization for Medicaid payment of orthodontic services.

At the hearing, the Respondent appeared by Richard Ernest, Program Manager for the Bureau for Medical Services. Appearing as a witness for the Respondent was ■, DDS. The Appellant appeared by her guardian, ■. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Bureau for Medical Services Provider Manual Chapter 505
- D-2 West Virginia Medicaid Prior Authorization Form for Dental/Orthodontic (blank copy)
- D-3 West Virginia Medicaid Orthodontic Prior Authorization Form dated September 6, 2018 and Medical Documentation
- D-4 Notice of Denial dated September 13, 2018

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 for Medicaid payment of orthodontic services was submitted on behalf of the Appellant on September 6, 2018 (Exhibit D-3).
- 2) The Appellant was diagnosed with a deep bite with palatal impingement and uneven upper and lower anterior teeth. The request indicated that services were requested to treat palatal impingement of lower incisors into the palatal tissue causing tissue trauma (Exhibit D-3).
- 3) The Respondent issued a Notice of Initial Denial to the Appellant on September 13, 2018, advising that the medical necessity criteria for orthodontic services had not been met (Exhibit D-4).

APPLICABLE POLICY

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 requires prior authorization before services are provided.

Bureau for Medical Services Provider Manual §505.8 states that medical necessity review criteria is based on dental standards approved by the Bureau for Medical Services and is reviewed by the utilization management contractor.

West Virginia Medicaid Orthodontic Prior Authorization Form lists the criteria required to meet medical necessity (at least one must be met):

- 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

Orthodontic services must meet the medical necessity criteria in policy for the approval of Medicaid payment. The Appellant's request for orthodontic services was denied as the medical necessity criteria had not been met.

In reviewing the Appellant's medical records submitted with the prior authorization request, the Respondent's witness, Dr. [REDACTED] testified that he did not find that the Appellant met the medical necessity criteria for orthodontic treatment. Dr. [REDACTED] testified that although the referring practitioner indicated that the Appellant had palatal impingement of the lower incisors into the palatal tissue, he could not find any evidence that the Appellant's teeth were not aligning correctly.

The Appellant's guardian testified that the Appellant's teeth are crowded and the Appellant has indicated that her teeth are causing her pain. Dr. [REDACTED] noted that crowding is not one of the criteria listed in policy that would meet medical necessity, and opined that crowded teeth typically do not cause pain.

The Respondent acted in accordance with policy to deny of prior authorization of orthodontic services as the medical necessity criteria was not met.

CONCLUSIONS OF LAW

- 1) Orthodontic services must meet the medical necessity criteria found in policy before prior authorization is granted.
- 2) The documentation submitted by the Appellant's referring practitioner failed to demonstrate palatal impingement of the lower incisors into the palatal tissue causing tissue trauma.
- 3) Medical necessity for orthodontic services for the Appellant was not met.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's denial of prior authorization of Medicaid payment for orthodontic services.

ENTERED this 13th day of November 2018

Kristi Logan
State Hearing Officer