



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

**Bill J. Crouch  
Cabinet Secretary**

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

**M. Katherine Lawson  
Inspector General**

February 14, 2018



RE: [REDACTED], A JUVENILE v. WV DHHR  
ACTION NO.: 17-BOR-2934

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: Angela Signore, Bureau for Medical Services

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

■, A JUVENILE,

**Appellant,**

v.

**Action Number: 17-BOR-2934**

**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 February 8, 2018, on an appeal filed November 4, 2017.

The matter before the Hearing Officer arises from the August 29, 2017, decision by the Respondent to deny prior authorization for Medicaid payment of orthodontic services.

At the hearing, the Respondent appeared by Anita Ferguson, Bureau for Medical Services. Appearing as witnesses for the Respondent were ■, Appeals Coordinator for ■ and ■, Compliance for ■. The Appellant appeared by his mother, ■. Appearing as a witness was ■. 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 ■ Member Handbook Dental Services Policy
- D-3 West Virginia Medicaid Orthodontic Prior Authorization Form (blank copy)
- D-4 Request for Prior Authorization for Comprehensive Orthodontic Treatment Form dated June 21, 2017
- D-5 X-rays, Photographs and Models; and Documentation of Appeal through Scion Dental
- D-6 Notice of Initial Denial dated August 29, 2017
- D-7 Appeal Letter-Adverse Determination Decision, Final Decision dated September 7, 2017

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 by [REDACTED], DDS, MS, on June 21, 2017 (Exhibit D-4).
- 2) The Appellant was diagnosed with a Class I, mild maxilla arch crowding, and moderate mandible arch crowding. The request indicated that services were requested to treat palatal impingement of lower incisors into the palatal tissue causing tissue trauma (Exhibit D-4).
- 3) [REDACTED] the Managed Care Organization contracted by the Respondent's Bureau for Medical Services to manage Medicaid programs, issued a Notice of Initial Denial to the Appellant on August 29, 2017, advising that the medical necessity criteria for orthodontic services had not been met (Exhibit D-6).
- 4) The Appellant's mother appealed the initial denial, and the case underwent a second review by [REDACTED], DMD (Exhibit D-7).
- 5) Dr. [REDACTED] upheld the initial denial of orthodontic services as the medical criteria had not been met, specifically, tissue trauma from the 90% overbite was not documented in the medical records provided (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 criteria had not been met.

The Appellant's referring practitioner requested orthodontic services to treat an overbite. To meet the criteria based on an overbite, tissue trauma from palatal impingement from the lower incisors must be present. Based on the medical documentation provided by Dr. [REDACTED] tissue trauma was not evident and therefore the medical necessity criteria had not been 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 14<sup>th</sup> day of February 2018**

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**Kristi Logan**  
**State Hearing Officer**