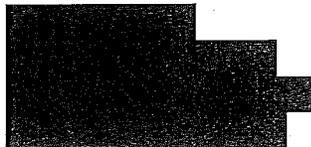




Rhode Island Executive Office of Health and Human Services
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June 24, 2015

Docket #15-792
Hearing Date: May 26, 2015



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issues(s) and Agency rules(s) and regulation(s) were the matters before the hearing:

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES (EOHHS) MEDICAID PROVIDER MANUAL: Dental

The facts of your case, the Agency rules and regulations, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant in c/o your mother), and Agency representatives Jack Demus and Robin Etchingham.

Present at the hearing were: Your mother and Agency representative Jack Demus.

ISSUE: Does the appellant child qualify for Medicaid covered comprehensive and related orthodontic services?

Rules, Regulations, and Guidelines:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Executive Office of Health and Human Services (EOHHS) Medicaid Code of Administrative Rules (MCAR) and Medicaid Dental Provider Manual

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The Agency representative testified:

- The Agency denied a request for prior authorization for comprehensive and other related orthodontic treatment submitted by the appellant child's orthodontist, Dr. Izzi.
- On March 16, 2015, the Department's orthodontic consultant, Dr. Brennan, reviewed the information submitted by Dr. Izzi.
- The State's orthodontist used what is called a HLD scoring index, which is used to measure the severity of the condition.
- Part A of the HLD index lists severe conditions. If any of the conditions were found to exist, no further scoring would have been necessary and the child would have qualified for the requested service.
- The appellant child did not meet the criteria for any of the listed conditions in Part A.
- When a child does not qualify in Part A, then the Part B procedure is used.
- Part B is where measurements are taken based on photos that are submitted by the child's doctor.
- An HLD score of 20 or more is needed to qualify for treatment.
- The appellant child scored a 3 for overjet, which is when the teeth flare forward.
- The appellant child also scored a 3 for overbite, which is when the top teeth cover the bottom teeth.
- There was no score given for eruption of teeth.
- The child received a score of zero for anterior crowding.
- The child's total score in Part B was 6, which falls below the score of 20 that is needed to qualify for treatment.

- For orthodontic treatment to be approved, the child's condition must be considered severe and handicapping.
- Based on the HLD scoring index, the child's condition was not severe and handicapping so the State's orthodontist denied the prior authorization request for treatment.

The appellant's mother testified:

- The orthodontist said that her daughter has some problems with her bite and with the spacing of her teeth. She also still has some baby teeth and some back teeth that are an issue as well.
- A congenital birth defect such as a cleft palate is listed in Part A. She has a cleft palate and she has been told that it is heredity so she asked the orthodontist if her daughter's bite and other issues are related and he said that he felt that they were.
- Both her daughter's dentist and her orthodontist strongly recommend orthodontic treatment and after speaking with both doctors she is concerned as to what will happen in the future if her daughter does not get the treatment now.
- The orthodontist told her that if her daughter does not receive the treatment now or soon, her condition will progressively get worse and it will be more costly to fix the spacing between her teeth later.
- Because her daughter is young, it would be better to treat her before she is fully grown.
- The problem with her teeth also impacts her daughter's self-confidence as it pertains to her appearance.
- She is disabled and unable to pay for the treatment or she would gladly pay for it herself.

FINDINGS OF FACT:

- The appellant minor child is a Medicaid recipient.
- Jason R. Izzi, DMD, submitted a request for prior authorization for comprehensive and other related orthodontic services for the appellant minor child.

- On March 19, 2015, the Agency sent notices to Dr. Izzi and the appellant to inform that Dr. Izzi's request for prior authorization had been denied because the child failed to meet the HLD score.
- The appellant child's mother filed a timely request for hearing, received by the Agency on April 7, 2015.
- The Administrative Hearing was convened on May 26, 2015.
- Per the appellant's request, the record of hearing was held open for three weeks, through the close of business on June 16, 2015, for the submission of additional evidence.
- No additional evidence was received during the held open period.
- To qualify for Medicaid covered comprehensive and other related orthodontic services, the requested service must be medically necessary and required to correct a handicapping malocclusion.
- A HLD (Handicapping Labiolingual Deviation) score of 20 or more demonstrates medical necessity.
- The appellant has a HLD score of 6.

CONCLUSION:

The issue to be decided is whether the appellant child qualifies for Medicaid covered comprehensive and other related orthodontic services.

The Agency's Medicaid Provider Manual for Dental Services stipulates that Medicaid payments will be provided only for covered dental services that the Agency's Medicaid Program, as the final arbiter, determines to be medically necessary. The Provider Dental Manual further stipulates that orthodontic services are limited to medically necessary services that are needed to correct a handicapping malocclusion in individuals under the age of 21. A handicapping malocclusion is defined as an occlusion having an adverse effect on the quality of the individual's life, including such things as speech, function, and/or esthetics that could have sociocultural consequences. A HLD (Handicapping Labiolingual Deviation) index is used to determine the degree of malocclusion to determine if and to what extent it is handicapping and whether orthodontic services are medically necessary.

The record establishes that the Agency received and denied a request for prior authorization from Jason R. Izzi, DMD for comprehensive and other related orthodontic services for the appellant child. The Agency argues that the appellant child does not meet the medically necessary criteria for orthodontic treatment. The Agency testifies that for orthodontic treatment to be approved, the appellant child's condition must be severe and handicapping as represented by the existence of certain conditions or a HLD (Handicapping Labiolingual Deviation) score of at least 20. The Agency submits a HLD Index-Orthodontic Diagnostic Score Sheet, completed and signed by the Agency's reviewing orthodontist, Dr. Brennan, and testifies that Dr. Brennan measured and scored the child's condition based on photos submitted by the child's orthodontist. According to the HLD Score Sheet, Dr. Brennan concluded that the appellant child had none of the conditions listed in Part A that would have automatically met the medically necessary standard. In Part B the child was given a score of 3 for Overjet, 3 for Overbite, a 0 for anterior crowding, and no score for ectopic eruptions, for a total score of 6.

The appellant child's mother testifies that the appellant child has problems with her bite and with the spacing of her teeth, and also has some baby teeth and some back teeth that are an issue as well. She argues that her child's dentist and orthodontist both recommend that she get braces. She further argues that the child's orthodontist has informed her that if her daughter does not received orthodontic treatment soon, her condition will progressively get worse and it will be more costly to fix the spacing between her teeth later. She further argues that her daughter's self-confidence as it pertains to her appearance is impacted by the issues with her teeth. The appellant's mother also questions whether the appellant child should qualify for orthodontic treatment based on the third condition listed in Part A of the HLD scoring index.

According to the HLD scoring sheet and as testified to by the Agency, if the child has any of the conditions listed in Part A of the HLD scoring index, she would qualify for the requested orthodontic treatment. The third condition listed is "Congenital birth defect (e.g. cleft palate) or deviations that affect skeletal relationship and/or dentition." The appellant's mother testifies that she herself has a cleft palate but that the orthodontist has informed her that though the child does not have a cleft palate he believes that the issues with the child's teeth are related to the mother's cleft palate because it is a hereditary condition. The record of hearing was held open to provide the appellant with an opportunity to submit additional evidence to dispute the Agency's claim that the child has none of the conditions listed in Part A of the HLD scoring sheet but no additional evidence was submitted. In summary, despite the appellant's mother's testimony, in the absence of additional evidence, the record fails to clearly establish that the appellant child has any of the qualifying conditions listed in Part A of the HLD scoring index.

While the appellant's mother argues that both the child's dentist and orthodontist have advised her that the child's condition will worsen if she does not receive treatment soon, medical necessity must be determined based on the child's current condition. The appellant's mother has provided no evidence to dispute that the child's total HLD Part B score is currently a 6. It should also be noted, while the appellant child's mother testifies as to her concern regarding the effects the child's dental condition has on the child's self-confidence, the record fails to establish that the child's quality of life has been affected by her dental condition to such an extent as to be considered handicapping.

In conclusion, orthodontic services must be medically necessary and required to correct a handicapping malocclusion established by the existence of a specific medical condition or by a HLD score of at least 20. The evidence record establishes that the appellant child has a HLD score of 6. As the evidence record fails to establish that the appellant child has a malocclusion or condition that is so severe as to be considered handicapping, the requested orthodontic services are thereby not medically necessary.

After a careful review of the Agency's rules and regulations, as well as the testimony and evidence submitted, this Appeals Officer finds that the appellant does not qualify for Medicaid covered comprehensive and other related orthodontic services. The appellant's request for relief is denied.



Debra L. DeStefano
Appeals Officer

APPENDIX

MEDICAID Provider Manual: Dental

DENTAL SERVICES COVERAGE POLICY

Introduction

Dental services are a benefit to eligible recipients under the Rhode Island Medical Assistance Dental Services Program.

General Policy Requirements

The Medical Assistance Program will only reimburse providers for medically necessary services. The Medical Assistance Program conducts both pre-payment and post-payment reviews of services rendered to recipients. Determinations of medical necessity are made by the staff of the Medical Assistance Program, trained medical consultants, and independent State and private agencies under contract with the Medical Assistance Program. Services that are denied by Medicare because they are not medically necessary are not reimbursable by the Medical Assistance Program.

Providers must bill the Medical Assistance Program at the same usual and customary rates as charged to the self-pay general public. Rates discounted to specific groups (such as Senior Citizens) must be billed at the same discounted rate to Medical Assistance. Payments to providers will not exceed the maximum reimbursement rate of the Medical Assistance Program.

Purpose of Coverage Policy

The purpose of this policy is to establish the rules of payment for services provided to individuals determined to be eligible for medical assistance under the Medical Assistance Program. The General Rules for the Medical Assistance Program and the rules in this policy are to be used together to determine eligibility for services.

Recipient Eligibility

The Medical Assistance Program provides coverage for necessary medical services to recipients who are in two basic benefit levels: Categorically Needy and Medically Needy. The scope of services varies according to the benefit level.

Refer to Section 100-40 in the Provider Reference Manual for further information.

Scope of Services

The Medical Assistance Program provides payment only for services that are included in the scope of services described in the DHS Manual at Section 033.20, Section 0348 for the Rlte Care Program, or under a waiver program at Section 0398; or for recipients under the age of 21 pursuant to the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, for additional services that are not included in the above sections, and that are definable under Section 1905(a) of the federal Social Security Act. Specific details of services covered and limitations thereon are contained in the Medical Assistance Program Provider Reference Manuals, the Rhode Island Title XIX State Plan, Section 1115 and Section 1915 Waiver requests, and the Rlte Care Program Managed Care Plan and Contracts. Payment is not made for services other than those described herein.

Medical Necessity

The Medical Assistance Program provides payment/allowance for covered services only when the services are determined to be medically necessary.

The term "medical necessity" or "medically necessary service" means medical, surgical, or other services required for the prevention, diagnosis, cure or treatment of a health related condition including such services necessary to prevent a detrimental change in either medical or mental health status.

Medically necessary services must be provided in the most cost effective and appropriate setting and shall not be provided solely for the convenience of the member or service provider.

Appeal of Denial of Medical Necessity

Determinations made by the Medical Assistance Program are subject to appeal by the recipient only. Providers may not appeal denials of Medical Necessity.

Procedures are available for individuals who are aggrieved because of an agency decision or delay in making a decision of medical necessity. The route of appeal for Title XIX recipients is through the Department of Human Services. Rlte Care participants may first appeal through the managed care plan, or may appeal directly through the Department of Human Services.

(Appeals rights and procedures are contained in DHS Manual Sections 0110 and 0348.)

Medical Assistance payments are provided only for covered services that are determined to be medically necessary. No Medical Assistance payment will be made for a medical procedure of an investigative or experimental nature.

Determinations of Medical Necessity

Determinations that a service or procedure is medically necessary are made by the staff, consultants and designees of the Health Care Quality, Financing and Purchasing Division, and by individuals and organizations under contract to the Department of Human Services. Policies relative to medical necessity are set forth in the DHS Manual, the Medical Assistance Program Provider Reference Manuals, and the Rhode Island State Plan under Title XIX of the federal Social Security Act. Medical necessity can be determined on procedure-by-procedure basis.

Approval of Medical Necessity

The Medical Assistance Program and its designees determine which services are medically necessary on a case-by-case basis, both in pre-payment and post-payment reviews, and via prior authorizations. Such determinations are the judgment of the Medical Assistance Program. The prescription or recommendation of a physician or other service provider of medical services is required for a determination of medical necessity to be made, but such prescription or recommendation does not mean that the Medical Assistance Program will determine the provider's recommendation to be medically necessary. The Medical Assistance Program is the final arbiter of determination of medical necessity.

ORTHODONTIC SERVICES

Orthodontics is medically necessary services needed to correct handicapping malocclusion in recipients under age 21. The HDL (RI Mod) Index (Handicapping Labio-lingual Deviation Index) is applied to each individual case by Board qualified orthodontic consultants to identify those cases that clearly demonstrate medical necessity by determining the degree of the handicapping malocclusion. The HDL Index is a tool that has proven to be successful in identifying a large range of very disfiguring malocclusions and two known destructive forms of malocclusion (deep destructive impinging bites and destructive individual anterior crossbite). *Please see example HDL scoring sheet at the end of this section.*

Handicapping Malocclusion

An occlusion that has an adverse effect on the quality of a person's life that could include speech, function or esthetics that could have sociocultural consequences. Examples would be significant discrepancies in the relationships of the jaws and teeth in anteroposterior, vertical or transverse directions.

COMPREHENSIVE ORTHODONTIC TREATMENT

The coordinated diagnosis and treatment leading to the improvement of a patient's dentofacial deformity or dentoalveolar skeletal discrepancies including anatomical, functional and esthetic relationships. Treatment usually, but not necessarily, utilizes fixed orthodontic appliances. Adjunctive procedures, such as extractions, maxillofacial surgery, nasopharyngeal surgery, myofunctional or speech therapy and restorative or periodontal care may be coordinated disciplines. Optimal care requires long-term consideration of patients' needs and periodic re-evaluation. Treatment may incorporate several phases with specific objectives at various stages of dentofacial development. Orthodontic treatment involves the placement of bands or bonded brackets for at least a two-year period during which time appropriate adjustments are made to achieve a proper occlusion for the patient. Comprehensive treatment ends when the entire adult dentition (except third molars) has been placed in proper occlusion. Certain appliances, such as a lingual arch, tooth positioner, head gear therapy or Hawley appliance, may be required in conjunction with a full course of orthodontic treatment. In other instances, these appliances may be utilized alone and preclude the necessity for a full course of orthodontic treatment.

When billing for comprehensive orthodontia treatment services, the following codes will be used, as appropriate:

Units	Transitional	Adolescent	Adult	Age Restriction	PA
Procedure code: 1	D8070	D8080	D8090	<21	Y
	Procedure codes - 1st 6 months				
1-6	D8071	D8081	D8091	<23*	Y
	Procedure codes - 2nd 6 months				
1-6	D8072	D8082	D8092	<23*	Y
	Procedure codes - 3rd 6 months				
1-6	D8073	D8083	D8093	<23*	Y
	Procedure codes - 4th 6 months				
1-6	D8074	D8084	D8094	<23*	Y

**applies only if recipients >20 meet all of the following conditions:*

1. Eligibility for Medical Assistance is maintained;
2. The request for prior authorization is approved and the work is initiated *prior* to the recipient's 21st birthday.

OTHER ORTHODONTIC SERVICES

D8660 Pre-Orthodontic treatment visit <21 N

Payment for orthodontic records when an orthodontic case is not approved.

D8670 Periodic Orthodontic treatment visit (as part of contract) <21 N

D8999 Unspecified orthodontic procedure, by report <21 Y

Used for procedure, that is not adequately described by a code. Describe procedure and submit appropriate documentation.

Full course orthodontic treatment usually involves the placement of bands or bonded brackets for a minimum two-year period during which time appropriate adjustments are made to achieve a proper occlusion for the patient.

Certain appliances, such as a lingual arch, tooth positioner, head gear therapy or Hawley Appliance, may be required in conjunction with a full course of orthodontic treatment. In other instances, these appliances may be utilized alone and preclude the necessity for a full course of orthodontic treatment.

When an appliance is provided in conjunction with a full course of treatment, a separate prior authorization request will be required for the provision of the special appliance. Payment will be processed when the special appliance has actually been provided to the patient.

The following codes should be utilized when requesting the appliances listed below:

D1510 Space maintainer - fixed - unilateral <21 N

D1515 Space maintainer - fixed - bilateral <21 N

D1520 Space maintainer - removable - unilateral <21 N

D1525 Space maintainer - removable - bilateral <21 N

D1550 Recementation of space maintainer <21 N

D1515 Orthodontic - Space Maintainer, fixed bilateral <21 N

D8020 Orthodontic-Head Gear Therapy <21 N

D8030 Orthodontic-Minor Tooth Movement with Hawley Appliance <21 N

D8060 Orthodontic-Maxillary Expansion Appliance <21 N

D8220 Orthodontic-Tongue Guard Fixed/Removable <21 N

D8680 Orthodontic-Tooth Retainer <21 N

Requests for payment can only be submitted after placement of permanent bands / wires and completion of six-month time intervals.

Orthodontic services and supplies authorized for eligible recipients will be allowed only as long as they remain eligible for the Medical Assistance Program and continue to meet the age limitations.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.