

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
APPEALS OFFICE  
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Docket # 15-22  
Hearing Date: February 5, 2015

March 9, 2015

**ADMINISTRATIVE HEARING DECISION**

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

**THE DHS PROVIDER MANUAL: Dental Services**

The facts of your case, the Agency policy, 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: [REDACTED], and Agency representatives: Jack Demus, Robin Etchingham, and the Policy Unit.

Present at the hearing were: [REDACTED], and Agency representatives Jack Demus and Rafael Martinez.

**ISSUE:** Does the appellant qualify for Medicaid covered Orthodontic services?

**DHS POLICIES:**

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy and Provider Manuals.

**APPEAL RIGHTS:**

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

**DISCUSSION OF THE EVIDENCE:**

**The agency representatives testified:**

- That the agency received a Prior Authorization Request from Dr. Steven Silverberg, for Orthodontic treatment for the appellant.
- That a clinical scoring index, called an HLD (Handicapping Labiolingual Deviation) index, is used to determine the severity of a malocclusion.
- A score of 20 or more is needed for approval of services.
- That Dr. William Brennan, D.M.D., a board certified consultant for the Agency, reviewed the request and accompanying documents and determined that the appellant had a score of 16. Her condition is not severe and handicapping and therefore not considered medically necessary.
- That the agency denied the Prior Authorization for Orthodontic treatment by notice dated November 7, 2014.

**The appellant's mother testified:**

- That the child has been denied braces by the agency due to her not meeting the HLD score. She appeals the decision to not finance her daughter's braces as her x-rays show that she requires orthodontic treatment.
- She stated that the child has not been back to see Dr. Silverberg since October 2014. The Orthodontist has told her that her daughter definitely needs braces. She stated that her daughter's front teeth are twisted and her bottom teeth overlap each other.
- That she does not have any additional information from her daughter's Orthodontist today. She stated that she requested a hearing because it was not clear to her how the agency determined that her daughter was not eligible for Orthodontic treatment.
- She requested that the record be held open for 30 days to allow her time to submit additional dental records.

**FINDINGS OF FACT:**

- Dr. Steven Silverberg submitted a Prior Authorization Request Form to the agency during September 2014.
- The agency denied the appellant's request for prior authorization for Orthodontic services by notice dated November 7, 2014.
- The agency received a request for a hearing on November 25, 2014.
- This record of hearing was held open for 30 days to allow the appellant's mother to submit additional information.

**CONCLUSION:**

The issue to be decided is whether the appellant qualifies for Medicaid covered Orthodontic services.

A review of the agency's policy determines that payment for Orthodontic services is limited to medically necessary services needed to correct a handicapping malocclusion in individuals under the age of 21. In this case, the agency determined that the Orthodontic services requested on behalf of the appellant are not medically necessary.

The agency representative testified that Dr. William Brennan, D.M.D. a board certified Orthodontic consultant for the Agency, reviewed a prior authorization request for Orthodontic services for the appellant. The agency representative further testified that a clinical scoring index is used to determine the severity of the appellant's malocclusion and that a score of 20 or more is needed for the malocclusion to be considered handicapping to such a degree that would allow approval of the services based on medical necessity. Based on the request and documentation submitted by Dr. Silverberg, the appellant was found to have a score of 16.

A review of the HDL scoring document finds that the appellant was scored for her combined overjet of 3mm, overbite of 3mm, and anterior crowding of 10, but her total score of 16 was below the required minimum score of 20. The agency consultant determined the HDL score by review of x-rays and dental photographs submitted by the appellant's Orthodontist.

This record of hearing was held open for 30 days to allow the appellant's mother to submit additional information from the appellant's Orthodontist. The appellant's mother did not submit any additional information to this record as of the close of business March 5, 2015.

The agency defines a handicapping malocclusion as, "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”.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the appellant does not meet the requirement of medically necessity needed for approval of Orthodontic services. The appellant's request for relief is therefore denied.



Michael J. Gorman  
Appeals Officer

## APPENDIX

### RHODE ISLAND DEPARTMENT OF HUMAN SERVICES MEDICAL ASSISTANCE PROGRAM

#### DHS Dental Services Provider Manual

#### ORTHODONTIC SERVICES

Orthodontics are limited to medically necessary services in order to correct handicapping malocclusion in recipients under age 21.

##### **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.

##### **Medically Necessary**

When a situation exists that could have a detrimental effect on the structures that support the teeth, and if damaged sufficiently, could lead to the loss of function.

Allowance may continue for orthodontic services on recipients losing EPSDT eligibility (reaching their 21<sup>st</sup> birthday) under the following circumstances:

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 21<sup>st</sup> birthday.

##### **Prior Authorization Requests**

All requests for prior authorization of payment must include the diagnosis, length, and type of treatment. Records, which include diagnostic casts (study models), cephalometric film, panoramic film or a complete series of intraoral radiographs, and diagnostic photographs must be submitted for full orthodontic treatment review.

Orthodontic treatment will be approved only where there is evidence of a favorable prognosis and a high probability of patient compliance in completing the treatment program.

### **Payment for Orthodontic Records**

If an orthodontic case *is not* approved for payment, Medical Assistance will pay the orthodontist a fee for examination and records. Procedure Code D8660. *This is limited to once every two (2) years.* These codes are tied to each distinct Prior Authorization (PA) request for full orthodontic treatment. If a request is received and denied as not medically necessary at that time, an allowance would not be made. If a subsequent request is received and approved because of changes in the child's mouth, an allowance would be made in that instance.

If an orthodontist sees a patient for an examination only, and the patient does not proceed with diagnostic records, Medical Assistance will pay for a Comprehensive Oral Evaluation. Post-treatment maintenance retainers will not be replaced if lost or damaged.

## **ORTHODONTIC SERVICES**

### **Claims Coding and Reimbursement**

Orthodontics are 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).

### **DENTITION**

**Primary Dentition:** Teeth developed and erupted first in order of time.

**Transitional Dentition:** The final phase of the transition from primary to adult teeth, in which the deciduous molars and canines are in the process of shedding and the permanent successors are emerging.

**Adolescent Dentition:** The dentition that is present after the normal loss of primary teeth AND PRIOR to cessation of growth; that would affect orthodontic treatment.

**Adult Dentition:** The dentition that is present after the cessation of growth that would affect orthodontic treatment.

### **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 reevaluation. 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:

**D8070 Comprehensive orthodontic treatment of the transitional dentition \_21 Y**

**D8080 Comprehensive orthodontic treatment of the adolescent dentition \_21 Y**

**D8090 Comprehensive orthodontic treatment of the adult dentition \_21 Y**

### **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.