

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County CUYAHOGA	District Hearings Section CLEVELAND	Assistance Group Name		Assistance Group Number
Place of Hearing CUYAHOGA CDHS	Initial Hearing Date 11/09/2004	Rescheduled Postponed to 01/11/2005	Rescheduled Postponed to 12/16/2004	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation Tina Talley, Legal Affairs Jerry Bryant, Director

Date Notice Mailed	Date Received by Local Agency	Date Received by ODHS 09/27/2004	Date Appeal Summary Received 10/15/2004	Date Scheduling Notice Mailed 12/17/2004
Appeal Number(s)/Program(s) 1193528/MED				

Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services.

If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form must be received by the Office of Legal Services within 15 calendar days from the date this decision is issued. *(If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.)* During the 15-day administrative appeal period you, or your representative, may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

ISSUE:

Appeal #1202773 and Appeal #1209417 Low Income Families Medicaid (MAC)
Medical necessity must be established in order to approve the prior authorization for orthodontic treatment under Ohio's Medicaid program. Doral Dental, a provider for QualChoice HMO Select, which is the Managed Care Plan (MCP) providing Medicaid benefits to the Appellant's Assistance Group (AG), denied the prior authorization for orthodontic treatment, specifically braces, because the medical information submitted did not establish medical necessity. Is the denial of orthodontic treatment correct? The 9/9/04 denial of braces is correct because the requirement of medical necessity was not demonstrated in accordance with established rules. Therefore, the appeal is **OVERRULED**.

PROCEDURAL MATTERS:

Notice of adverse action was issued to the Appellant on 9/9/04 denying a request for braces for her daughter. The Appellant disagreed with the denial and requested a state hearing on 9/27/04. The state

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Appeal(s) OVERRULED 1193528	Date Issued 01/19/2005	Compliance
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Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. *(Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)*
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hearing was scheduled for 11/9/04. Upon a showing of good cause, the state hearing was rescheduled for 12/16/04. The state hearing was rescheduled again upon a showing of good cause and hearing notice was mailed to all parties on 12/22/04 and a state hearing was scheduled and heard on 01/09/05. The scheduling delay was a result of a dental determination. An Appeal Summary was submitted by the Managed Care Plan at the state hearing (See EXHIBIT A). The Appellant represented her daughter at the hearing; the Managed Care Plan was represented by a Director, legal counsel, and a dentist from the provider, Doral Dental.

FINDINGS OF FACT:

1. The Appellant's daughter is 15 years old and receives Healthy Start Medicaid coverage through QualChoice HMO Select, which is the Managed Care Plan.
2. On 9/8/04 Doral Dental, the dental provider, received a request for prior authorization for orthodontic treatment, specifically braces, for Appellant's daughter.
3. Appellant's child's left upper canine has not erupted due to overcrowding of the teeth. Appellant's child also has an overbite, and crooked teeth.
4. Doral Dental reviewed Appellant's daughter's x-rays and models. Based on the x-rays and models, Doral Dental determined Appellant's daughter's condition is not severe enough to meet one of the seven criteria of medical necessity for braces.
5. Doral Dental determined the Appellant's daughter's overbite, crooked teeth, and the non-eruption of the canine tooth do not meet any of the criteria to establish medical necessity.
6. The prior authorization was denied on 09/09/04 because none of the criteria to establish medical necessity was met.

CONCLUSIONS OF POLICY:

Policy:

1. Ohio Administrative Code (OAC) § 5101:3-1-01 (A) (2002) states "Medical necessity" is the fundamental concept underlying the Medicaid program. Physicians, dentists, and limited practitioners render or authorize services within the scope of their licensure and based on their professional judgment of those services needed by an individual. "Medically necessary services" are services which are necessary for the diagnosis or treatment of disease, illness, or injury and without which the patient can be expected to suffer prolonged, increased or new morbidity, impairment of function, dysfunction of a body organ or part or significant pain and discomfort. A medically necessary service must: (1) meet accepted standards of medical/dental practice; (2) be appropriate to the illness or injury for which it is performed as to type of service and expected outcome; (3) be appropriate to the intensity of service and level of setting; (4) provide unique, essential, and appropriate information when used for diagnostic purposes.
2. Ohio Administrative Code (OAC) § 5101:3-5-10 (2003) states, in part, in order for orthodontic services to be determined medically necessary, a patient must demonstrate a minimum of five symptoms identified on the Referral Evaluation Criteria For Comprehensive Orthodontic Treatment (ODHS form 3630), with at least

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two of the symptoms appearing under dentofacial abnormality before the provider submits a request for consideration. In order to meet medical necessity, one of the seven following conditions must be met (See EXHIBIT B): (1) deep impinging over bite that shows palatal impingement of the majority of lower incisors; (2) true anterior open bite (not including one or two teeth slightly out of occlusion or where the incisors have not fully erupted); (3) demonstrates a large anterior-posterior discrepancy (Class II and Class III malocclusions that are virtually a full length Class II or Class III); (4) anterior cross bite (involves more than two teeth in crossbite); (5) posterior transverse discrepancy (Involves several posterior teeth in crossbite, not a single tooth in crossbite); (6) significant posterior open bites (Not involving partially erupted teeth or one or two teeth slightly out of occlusion); or (7) impacted canines that will not erupt into the arches without orthodontic or surgical intervention (Does not include cases where canines are going to erupt ectopically).

Analysis:

Based on the medical information provided, which included models and x-rays, Doral Dental determined Appellant's daughter's condition does not meet any of the above criteria to establish medical necessity. The dentist testified that although the Appellant's daughter's teeth are in a condition that they would benefit from braces, the condition is not severe enough that it meets one of the seven criteria for medical necessity. The above criteria only cover cases of severe malocclusion. The dentist further explained the above seven criteria as follows: (1) means the lower teeth bite into tissue behind the upper teeth; (2) means when an individual bites down you can look through the top and bottom teeth when looking from the front at eye level; (3) means the teeth come together much further forward or backward than normal; (4) means the lower front teeth are in front of the upper front teeth; (5) means the lower teeth are in front of the upper front teeth; (6) means the teeth are not biting against each other. When you look at the bite from the side of the mouth, the teeth don't meet; and (7) the eyeteeth are trapped in a horizontal fashion above the rest of the teeth in the bone (horizontally impacted).

Appellant's mother argued and provided a written statement that her daughter has an overbite and her canine tooth will not erupt due to the crowding of the other teeth. She was told by her daughter's orthodontist that braces are needed for her daughter. Based on the x-rays and models of the teeth, Doral Dental determined Appellant's daughter's overbite and crooked teeth do not meet one of the seven criteria explained above. The dentist also explained at the hearing, although the child's canine tooth will not erupt, the reason it will not erupt, overcrowding, does not meet the criterion #7 above because the tooth is not horizontally impacted. The Appellant's daughter's tooth is able to come down on its own once room is made in the mouth. Since the x-rays and models of Appellant's daughter's teeth did not show her condition meets any of the criteria to establish medical necessity, the denial of the prior authorization for braces is in accordance with the rules.

HEARING OFFICER'S RECOMMENDATIONS:

Based on the record before me, I find Appeal #1193528 should be OVERRULED. The 09/09/04 denial of orthodontic treatment, specifically braces, is correct.

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FINAL ADMINISTRATIVE DECISION AND ORDER:

Finding the Hearing Officer's decision to be supported by the evidence, the recommendation above is adopted.

Appeal #1193528 should be **OVERRULED**.

EXHIBITS:

- A - Appeal Summary with attached documentation
- B- Medical necessity requirements
- C - Appellant's written statement

Date Issued: 01/19/2005