

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/10-23
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Office of Vermont Health Access (OVHA) denying her request for comprehensive orthodontia under Dr. Dynasaur. The issue is whether petitioner's condition meets the criteria for prior authorization for orthodontia. The decision is based upon the evidence admitted at and after hearing.

FINDINGS OF FACT

1. The petitioner is fifteen years old. C.H. is petitioner's mother.
2. On or about October 15, 2009, petitioner's orthodontist submitted a Prior Authorization Form for comprehensive orthodontia to OVHA. The orthodontist checked that petitioner met one of the minor criteria, namely, traumatic deep bite impinging on palate. The orthodontist did not check any major impairment, functional impairment or special medical consideration. The orthodontist supplied OVHA with the Pan, study model, and photos for review.

3. In its review, OVHA found that the petitioner did not meet any of the criteria for prior authorization for orthodontia. A Notice of Decision denying prior authorization for orthodontia was sent on November 24, 2009.

4. A fair hearing was held on February 11, 2010. The petitioner was represented by C.H., her mother. C.H. elected to go forward although she was given the opportunity to seek advice or further information from petitioner's orthodontist.

5. C.H. explained her concerns that petitioner would be adversely affected if they delayed orthodontia until petitioner's condition deteriorated. C.H. testified that petitioner had difficulty chewing with her front teeth and some wear on her bottom teeth.

6. C.H. submitted a December 17, 2009 letter from petitioner's orthodontist that described the course of treatment and costs. The letter noted that petitioner had problems with crowding and overbite.

7. OVHA was given the opportunity to review the orthodontist's letter. On February 16, 2010, OVHA updated its dental basis statement finding that the orthodontist's letter was a form letter typically sent to a patient's family. OVHA did not find information in the letter that changed its opinion.

ORDER

OVHA's decision is affirmed.

REASONS

States are required to provide dental services to Medicaid recipients under the age of twenty-one if certain criteria are met as part of the Early, Periodic, Screening, Diagnosis and Treatment (EPSDT) requirements. Dental services are defined at 42 U.S.C. § 1396d(r) (3) to include services:

(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

Vermont has adopted regulations governing orthodontic treatment consistent with EPSDT requirements. The pertinent sections of W.A.M. § 7314 state:

(7314) Medically necessary orthodontic treatment involves the use of one or more prosthetic devices to correct a severe malocclusion. This definition is consistent with the federal definition found at 42 CFR § 440.120(c).

. . .

(7314.3) To be considered medically necessary, the beneficiary's condition must have one major or two minor malocclusions according to the diagnostic criteria adopted by the department's dental consultant or if otherwise necessary under EPSDT found at rule 4100.

The EPSDT requirements can be found in the questions addressing whether there are functional impairments equal or greater than the impairments listed for major or minor criteria or whether there is other special medical consideration.

The treating orthodontist or dentist completes a Prior Authorization Request Form that addresses OVHA's criteria.

In the petitioner's case, her orthodontist only checked one of the minor criteria. One minor criterion does not rise to the level necessary for prior authorization.

Unfortunately, it cannot be concluded that the petitioner has presented sufficient evidence to show that orthodontia is medically necessary under the rules. Petitioner is free to reapply if any of her dental or medical providers will document sufficient need.

Based on the evidence, OVHA's decision is affirmed. 3
V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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