



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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Assistant Commissioner

**STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

F.F.,

PETITIONER,

ADMINISTRATIVE ACTION

v.

FINAL AGENCY DECISION

AMERIGROUP COMMUNITY PLAN,

OAL DKT. NO. HMA 01479-2022

RESPONDENT.

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is July 7, 2022 in accordance with an Order of Extension.

This matter concerns the October 26, 2021 determination by Amerigroup Community Plan (Amerigroup) that Petitioner was not eligible to receive orthodontic services. The Initial Decision upholds the denial, and for the reasons set forth therein, I concur with that determination.

Medicaid regulations only cover medically necessary dental services, and orthodontic treatment is limited to individuals with handicapping malocclusions that meet or exceed twenty-six points¹ on the New Jersey Orthodontic Assessment Tool. N.J.A.C. 10:56-2.15. Dr. Lon

¹ N.J.A.C. 10:56-2.15 provides that a handicapping malocclusion must meet or exceed twenty-four points for an individual to be eligible for treatment; however, the State adopted the New

Rosen, DDS, Dental Director, testified on behalf of Amerigroup and stated that Petitioner's dental records did not exhibit the minimum number of criteria or points. ID at 2. Records from Petitioner's treating dentist, Dr. Sholom D. Friedman, set her assessment to twenty-seven points, scoring her at seven points for an overjet, five points for an overbite, ten points for anterior crowding, and five points for labiolingual spread. P-1. However, Dr. Rosen determined that Petitioner's dental records fail to support this scoring and assessed Petitioner at 19 points, scoring her at three points for an overjet, four points for an overbite, ten points for anterior crowding, and two points for labiolingual spread. R-2. Moreover, Petitioner's dental records failed to show any extenuating factors, such as facial or oral clefts, extreme antero-posterior relationships, extreme mandibular prognathism, a deep overbite where incisor teeth contact palatal tissue, or extreme bi-maxillary protrusion, that would warrant the approval of orthodontic services. ID at 2. Petitioner appealed Amerigroup's denial to an Independent Utilization Review Organization (IURO) for an external appeal. R-4. The IURO upheld Amerigroup's denial of orthodontic treatment for Petitioner, and concurred with the score assessed by Dr. Rosen. Ibid. Subsequently, on February 8, 2022, Petitioner sought an evaluation by a second, treating orthodontist, Dr. Krug, who assessed and scored Petitioner at thirty points, seven points for an overjet, six points for an overbite, ten points for anterior crowding, and seven for labiolingual spread. P-1.

The Initial Decision found that Petitioner failed to demonstrate that she qualified for orthodontic services. I concur. Neither Dr. Friedman nor Dr. Krug testified on Petitioner's behalf in this matter, and as a result, it is unclear how Dr. Friedman and Dr. Krug assessed and scored Petitioner. It is also unclear why Dr. Friedman and Dr. Krug's assessment and scoring differed

Jersey Orthodontic Assessment Tool for Comprehensive Treatment HLD (NJ-Mod3) assessment tool, which requires a score equal to or greater than twenty-six points as the criteria for eligibility.

from each other and from Amerigroup and the IULO's assessments and scoring. Nevertheless, there is no documentation in the record to support the assessments and scoring assigned by either Dr. Friedman or Dr. Krug.

Accordingly, and based upon my review of the record and for the reasons set forth above, I concur with the ALJ that Petitioner does not meet the requirements for orthodontic treatment under the Medicaid regulations at this time.

THEREFORE, it is on this 24th day of JUNE 2022

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods _____ OBO
Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services