



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
Division of Medical Assistance and Health Services
P.O. Box 712
Trenton, NJ 08625-0712

SARAH ADELMAN
Commissioner

GREGORY WOODS
Assistant Commissioner

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

F.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

AMERIGROUP

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 11601-23

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is October 7, 2024.

This matter concerns the determination by Amerigroup that Petitioner was not eligible to receive orthodontic services. The Initial Decision upholds the denial finding

that Petitioner is ineligible for orthodontic benefits, and for the reasons set forth therein, I concur.

As authorized by the "New Jersey Medical Assistance and Health Services Act" N.J.S.A. 30:4D-1 et seq. and the "Family Health Care Coverage Act" N.J.S.A. 30:4J-8 et seq., the New Jersey Manual for Dental Services N.J.A.C. 10:56-1.1 to -3.12 describes the requirements of the New Jersey Medicaid/NJ FamilyCare fee-for-service programs pertaining to the provision of, and reimbursement for, medically-necessary dental services to eligible beneficiaries. N.J.A.C. 10:56-1.1.

Medicaid regulations only cover medically necessary dental services, and orthodontic treatment is limited to individuals with handicapping malocclusions that meet or exceed twenty-six points on the New Jersey Orthodontic Assessment Tool. N.J.A.C. 10:56-2.15. 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 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. F.T. v. Horizon N.J. Health, OAL DKT. NO. HMA10207-16, 2016 N.J. AGEN LEXIS 957, Initial Decision (November 4, 2016).

If the HLD (NJ-Mod 3) Assessment tool indicates documented clinical criteria found in section 1-6A and 15 of the assessment tool or a total score that is equal to or greater than 26, the pre-orthodontic treatment work-up can proceed. A total score of less than 26 points on the HLD (NJ-Mod 3) Assessment tool requires documentation of the extenuating circumstances, functional difficulties and/or medical anomaly be included in the submission.

DMAHS, *Updated Criteria of Orthodontic Services and HLD (NJ Mod3)*, Vol. 32, No. 2 (Jan. 2022).

Examples of possible extenuating circumstances are: (1) facial or oral clefts; (2) extreme antero-posterior relationships; (3) extreme mandibular prognathism; (4) a deep overbite where incisor teeth contact palatal tissue; and (5) extreme bi-maxillary protrusion. N.J.A.C. 10:56-2.15(d)(2)(i).

In the present matter, Petitioner initially presented for orthodontic treatment on August 14, 2023. Petitioner's initial treating orthodontist, Dr. Kate Lew DMD, diagnosed Petitioner with a class III malocclusion, upper and lower teeth crowding, a crossbite, and a retroclined lower incisors. (P-1). In late August 2023 Petitioner sought coverage for what Petitioner deemed medically necessary orthodontic treatment. Specifically, Petitioner requested coverage for comprehensive orthodontic treatment including insertion of braces, adjustment of braces, and periodic orthodontic treatment. (R-1).

Utilizing the NJ Orthodontic Assessment Tool for Comprehensive Treatment, Petitioner scored 10 points, below the 26-point threshold for eligibility. (R-4). Dr. Matt MacLean, the review consultant, determined that although the patient's treating orthodontist recommended orthodontic treatment, there was no handicapping malocclusion present and no evidence of trauma or soft tissue damage on the records originally submitted. (R-4). A subsequent external appeal conducted by Maxiumus upheld the denial finding orthodontic treatment visits not medically necessary. (R-5). Despite the determination that orthodontic treatment was not medically necessary, Petitioner paid for the services out-of-pocket. Thus, the case transitioned to a request for reimbursement. (ID at 2).

The ALJ found that while Petitioner was given the opportunity to submit additional records, and to secure the testimony of the treating orthodontist, neither additional

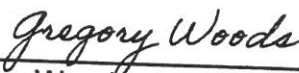
records nor expert testimony were provided. Accordingly, no supporting evidence or expert testimony was provided to counter the findings that Petitioner's treatment was not medically necessary as determined based on the NJ Orthodontic Assessment Tool for Comprehensive Treatment.

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

THEREFORE, it is on this 21st day of SEPTEMBER 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services