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

M.R.,

PETITIONER,

v.

WELLPOINT,

RESPONDENT.

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ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 08038-2024

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. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 9, 2024, in accordance with an Order of Extension.

This matter concerns the determination by Wellpoint 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 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 New Jersey Is An Equal Opportunity Employer • Printed on Recycled Paper and Recyclable

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).

Dr. Salvatore Pavone, DDS testified for the Respondent as an expert witness in dentistry. Dr. Pavone, a licensed dentist, is the director of Respondent's dental group and reviews requests for orthodontic procedures. ID at 2. In determining whether medical needs and procedure meet the State-mandated requirements, he reviews patient records, X-rays, and the New Jersey Orthodontic Assessment Tool for Comprehensive Treatment HLD. Ibid. Dr. Pavone explained that the patient's treating physician completes the HLD from, which is then reviewed by the dental insurance provider. Ibid. He further testified that even though a patient may benefit from orthodontics, the HLD criteria and score must be met to receive coverage under the plan. Id. at 3.

The Petitioner was evaluated for braces by their treating physician, Dr. Krug from Krug Orthodontics. Ibid. On November 13, 2023, Dr. Krug completed an HLD on the Petitioner and scored the Petitioner at 30, which would have qualified them for braces

under the HLD. However, after reviewing the records provided by Dr. Krug, including X-rays, diagnostic pictures, and the treatment plan, Dr. Pavone disagreed with the score of 30. Ibid. Dr. Pavone went through the scoring sheet and testified that the Petitioner scored a 20, and as such, did not qualify for orthodontics under the State Plan. Ibid.

On January 15, 2024, Dr. Atalla Ghassan completed an HLD on the Petitioner, which resulted in a total score of eighteen. Ibid. On January 15, 2024, the Petitioner was notified that their request for braces was denied based upon the HLD completed by Dr. Ghassan. Ibid. The Petitioner appealed that decision, and on March 19, 2024, Dr. Yen Le completed an HLD on the Petitioner which resulted in a total score of twenty. Ibid. As such, the Petitioner's request for braces was denied again by letter dated April 3, 2024. Ibid.

In the Initial Decision, the Administrative Law Judge (ALJ) found that Dr. Pavone's testimony was credible. Ibid. The ALJ noted that Dr. Pavone explained his analysis in detail, and explained the categories enumerated on the HLD and his conclusion that the Petitioner was at a score of twenty. Ibid. Dr. Pavone disagreed with Dr. Krug's report and testified to the specific areas of disagreement and the reasons. Ibid. Furthermore, the Petitioner's dentist, Dr. Krug did not testify so there was no credible testimony regarding his scoring on the HLD. Ibid. Dr. Krug's report was not corroborated by any testimony, and his scoring was contradicted by three other dentists by a minimum of ten points. Ibid.

The ALJ found that the Medicaid program can only provide reimbursement for orthodontic services to patients with specific orthodontic conditions or with a combination for orthodontic conditions that result in a score of 26 or greater on the HLD. Ibid. Here Dr. Pavone credibly testified that the Petitioner only scored a 20 and did not meet any of

the automatic qualifiers under the HLD. Nor was there any testimony to discredit the testimony and expert opinion of Dr. Pavone.

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 9th day of December 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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