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

Y.S.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

WELLPOINT

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 06059-24

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 August 31, 2024.

This matter concerns the determination by Wellpoint that Petitioner was not eligible to receive orthodontic services. (R-3). The Initial Decision upholds the denial finding that Petitioner is ineligible for dental braces, 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 was evaluated for braces by Dr. Krug of Krug Orthodontics. Dr. Krug found that Petitioner automatically qualified under section 4 of the (NJ-Mod3) assessment tool, which provides: "[c]rossbites of individual anterior teeth with trauma, mobility and/or soft tissue damage must be present and documented." (R-1). However, Dr. Salvatore Pavone testified as an expert in dentistry and director of Wellpoint's dental group and disagreed with Dr. Krug's findings. Dr. Pavone found that Petitioner did not meet any automatic qualifiers and scored 21 points, below the 26 point threshold. (R-2).

E.S., Petitioner's father, testified that Dr. Krug, Petitioner's orthodontist, is well-regarded and diagnosed Petitioner with a crossbite that he believes necessitates braces. E.S. expressed concern that without braces, Petitioner might require surgery in the future. The ALJ determined that while E.S. was credible in expressing his concern about Petitioner's condition, the testimony from Dr. Krug was not presented, and no supporting evidence was provided to counter Dr. Pavone's detailed and credible testimony. Additionally, there is no evidence that Petitioner had extenuating factors such as a documented psychological or medical condition. N.J.A.C. 10:56-2.15(d).

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 15th day of AUGUST 2024,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods

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