

2. Xerox misrepresented it was conducting Prior Authorization of Orthodontia PA Requests and reviewing for medical necessity when in actuality it merely performed a clerical approval of the requests regardless of Medicaid policy criteria.

A. From 2004 to 2012, Xerox made hundreds of thousands of misrepresentations when Xerox approved prior authorization requests and issued approval letters.

From 2004 to 2012, each time Xerox's Dental Clerks or Dental Director reviewed and approved a prior authorization request, Xerox issued an approval letter containing the following misrepresentations:

"We are pleased to inform you that the Texas Medicaid program has authorized the following service(s):".

See Exh. 10 - illustrative examples of the letters Xerox issued.

"We are pleased to inform you the Texas Health Steps (THSteps) Dental service(s) has been authorized for the client identified above."

See Exh. 11 - illustrative examples of the letters Xerox issued.

B. Xerox's statements that it conducted a Prior Authorization for Orthodontia PA Requests were false.

Xerox's Dental Director from 2004 to August 2011, Dr. Jerry Felkner, has admitted that both he and the Dental Clerks did not actually perform a prior authorization of the ortho PA requests but rather, simply approved nearly all the requests regardless of whether the requests met the Medicaid policy criteria or not:

Q. Is it a true statement to say that you approved nearly everything that you reviewed regardless of whether it met Medicaid guidelines for medical necessity?

A. Yes.

Q. Is it a true statement to say that if the HLD score sheet was filled out and the supporting materials were there and the eligibility of the recipient was confirmed the application would be approved regardless of medical necessity?

A. For me or for the clerks?

Q. For you.

A. Yes.

Q. And can you comment also about the clerks based on what you know?

A. Well, the clerks, again, were looking at the

- arithmetic. If the arithmetic added up they approved it.
- Q. So there really wasn't any determination of medical necessity going on in terms of evaluating the underlying data, correct?
- A. No.
- Q. Is that correct?
- A. That's correct.

Exh. 12 - Dr. Jerry Felkner July 5, 2012 EUO, 39:8-40:6.

Rather than conducting a substantive prior authorization review of the diagnostic materials submitted by providers with PA Requests, (as represented by Xerox in its P&Ps described above) Xerox's Dental Director would approve a request in merely 4 seconds.

Xerox's Prior Authorization Supervisor and Dental Clerks even recognized and complained amongst each other about the Dental Director's rapid approvals:

November 16, 2010:

"Do you see the problem I have sending that stuff to dr f? he opened it at 8:48:57 and closed it at 8:49:03. 4 seconds later."

See Exh. 13, at XBS 001749960.

Xerox's Dental Director again confirmed that since 2004 he had approved all PA requests he reviewed regardless of the score or the age, even including PA requests with a score below 26 and even if the patient was younger than 12 years old:

- Q. Did you ever come to have an understanding that applications with HLD scores of less than 26 might still meet medical necessity criteria under Medicaid?
- A. Well, technically they could have a malocclusion; however, I approved all of them regardless.
- Q. And when you say you approved all of them, tell us what you mean.
- A. The applications that came in, even if they were under 26 I approved them; even if they were under age 12 I approved them.
- Q. All right. And did you do that from the beginning of your tenure throughout the time that you left in 2011?
- A. Yes.
- Q. Did that process that you just described of

approving all applications regardless of the score and regardless of the age, did that ever change?

A. No, sir.

Q. You understood it was the responsibility of ACS to review the underlying data included with the orthodontic prior authorization applications to confirm medical necessity, correct?

A. Yes.

Exh. 12 - Dr. Felkner EUO, 24:5 – 25:3.