



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

March 22, 2006

\_\_\_\_\_ for \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 20, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage for non-sterile gloves.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: non-sterile gloves are covered under the Medicaid Program only for persons with diagnoses of HIV or End Stage Renal Disease (Medicaid Regulations Chapter 500-17, Attachment I May 1, 2005).

The information which was submitted at your hearing revealed that your diagnosis was spinal cord injury/quadruplegia and non-sterile gloves are only covered by the Medicaid Program for persons with a diagnosis of HIV or End Stage Renal Disease.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny Medicaid coverage for non-sterile gloves.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Patricia Woods, Bureau for Medical Services

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
BOARD OF REVIEW**

\_\_\_\_\_,

**Claimant,**

v.

**Action Number: 06-BOR-1057**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 20, 2006 for \_\_\_\_\_. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened as a telephone conference hearing at claimant's request on March 20, 2006 on a timely appeal filed January 18, 2006.

It should be noted here that the claimant's benefits have been denied pending a hearing decision.

**II. PROGRAM PURPOSE:**

The Program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources. The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

**III. PARTICIPANTS:**

1. \_\_\_\_\_, Claimant's mother & representative.
2. Patricia Woods, Nurse Administrator, Bureau for Medical Services.
3. Virginia Evans, Claims Representative, Bureau for Medical Services.

Presiding at the Hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the Department took the correct action to deny Medicaid coverage for non-sterile gloves.

**V. APPLICABLE POLICY:**

Medicaid Regulations Chapter 500, DME/Medical Supply Manual, Attachment I, HCPCS Codes for Durable Medical Equipment/Medical Supplies, effective May 1, 2005.

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- A Copy of certificate of medical necessity 12-12-05.
- B Copy of decision by WVMI and notification letter dated 1-5-06 (3 pages).
- C Copy of regulations from Medicaid Chapter 500 (2 pages).

**VII. FINDINGS OF FACT:**

- 1) A request for authorization for Medicaid coverage for non-sterile gloves was submitted for the claimant by Dr. [REDACTED] on 12-12-05 (Exhibit #A).
- 2) The request for Medicaid coverage for non-sterile gloves was denied as non-sterile gloves are covered only with a diagnosis of HIV or End State Renal Disease and a denial notification letter was mailed on 1-5-06 (Exhibit #B).
- 3) A hearing request was received by the Bureau for Medical Services on 1-18-06, by the Board of Review on 2-10-06, and by the State Hearing Officer on 2-15-06.
- 4) Testimony from Ms. Woods revealed that regulations in Chapter 500 DME/Medical Supply Manual, Attachment I, HCPCS Codes For Durable Medical Equipment/Medical Supplies, effective May 1, 2005 state that non-sterile gloves are covered by the Medicaid Program only if the applicant has a diagnosis of HIV or End Stage Renal Disease and that the claimant's diagnosis was spinal cord injury/quadruplegia and coverage by the Medicaid Program was denied (Exhibit #C).

- 5) Testimony from Ms. \_\_\_\_\_ revealed that the non-sterile gloves are needed to do her son's bowel program, that she has to go in to the rectum to get his bowels to move or has to put her finger in to get the stool out, that she needs the gloves to take care of her son, and that she thinks it is a bad law that will not allow Medicaid coverage.
- 6) The physician's certification of medical necessity (Exhibit #A) lists the ICD-9 code as 344 and gives a diagnosis as spinal cord injury/quadriplegia.
- 7) Medicaid Regulations from DME/Medical Supply Manual, Attachment I, HCPCS Codes for Durable Medical Equipment/Supplies from Chapter 500-17, May 1, 2005 state, in part:

"HCPCA CODES	DESCR.	SERVICE	SPECIAL INSTRUCTIONS
A4927	GLOVES, NON-STERILE	1 PER MO.	REQUIRES ICD-9-CM DIAGNOSIS CODES: 042 OR 595"

**VIII. CONCLUSIONS OF LAW:**

Regulations from Medicaid Chapter 500 DME/Medical Supply Manual, Attachment I, HCPCS Codes for Durable Equipment/Medical Supplies clearly state that non-sterile gloves are covered by the Medicaid Program only when the recipient has a diagnosis of HIV or End Stage Renal Disease with ICD-9 codes of 042 or 595. In this case, the claimant has a diagnosis of spinal cord injury/quadriplegia and an ICD-9 code of 344 listed on the physician's certificate of medical necessity. The regulations clearly require an ICD-9 code of 042 or 595 in order for non-sterile gloves to be covered by the Medicaid Program.

**IX. DECISION:**

It is the decision of the State Hearing Officer that the Department took the correct action to deny Medicaid coverage for non-sterile gloves.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 22nd Day of March, 2006.**

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**Thomas M. Smith  
State Hearing Officer**