



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Ave.
Lewisburg, WV 24901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 30, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 24, 2006. Your appeal was based on the Department of Health and Human Resources' denial of your request for incontinence supplies under the Medicaid Program.

In arriving at a decision, the State Hearing 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: Prior approval is necessary for specified services to be delivered for an eligible client by a specified provider before services can be performed, billed, or payment made. A utilization review method used to control certain services which are limited in amount, duration, or scope. (West Virginia Provider Manual Chapter 200 – Definitions)

Information submitted at the hearing revealed that you do not have a qualifying diagnosis for program purposes.

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny payment of incontinence supplies.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Evelyn Whidby, BMS

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

____,

Claimant,

v.

Action Number 06-BOR-1089

West Virginia Department of Health & Human Resources,

Respondent.

DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on May 24, 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 originally convened on May 24, 2006 on a timely appeal filed January 26, 2006.

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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 the development of regulations to implement Federal and State requirements for the program. The Department of Health & Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

____, Claimant

____, wife of Claimant

The following individuals participated telephonically:

Patricia Woods, Nurse Administrator, Bureau for Medical Services
Virginia Evans, Claims Representative, Bureau for Medical Services
Tina Green, RN, West Virginia Medical Institute
Paula Clark, RN, West Virginia Medical Institute

Observing:

Evelyn Whidby, Bureau for Medical Services
Karen Spencer, RN, West Virginia Medical Institute

Presiding at the hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency complied with policy in denying the Claimant's request for incontinence supplies.

V. APPLICABLE POLICY:

WVBMS Medicaid Adult/Pediatric Incontinence Guidelines

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Information received from [REDACTED] PA-C and Med-Response
- D-2 1) Review by West Virginia Medical Institute 2) Notice of Denial
- D-3 1) Reconsideration information from [REDACTED] PA-C 2) Results of WVMI's reconsideration review 3) Notice of Reconsideration Determination by WVMI
- D-4 West Virginia Medicaid Adult/Pediatric Incontinence Guidelines

VII. FINDINGS OF FACT:

- 1) The request for incontinent supplies was reviewed by WVMI on December 14, 2005. On December 10, 2005, [REDACTED] PAC, signed a Certificate of Medical Necessity (CMN). Diagnoses listed were incontinence (788.30) due to seizure disorder (780.39) and chronic diarrhea (787.91). A referral was made to the physician reviewer at WVMI due to not having an approvable diagnosis based on the criteria established by WV Medicaid to explain the cause of the incontinence.
- 2) The Claimant was notified in a letter (D-2) dated December 19, 2005 of the denial of his request for incontinence supplies. The letter stated, in part:

By contract, WVMI reviews requests for services to determine if they are medically necessary.

After review of the information provided, it was determined that the requested services do not meet medical necessity and therefore, cannot be authorized. This is in reference to your request for 192 disposable undergarments per month. The documentation provided did not contain a diagnosis that would explain the cause of the incontinence.

- 3) A request for reconsideration of the above decision was received on January 3, 2006 (D-3) from [REDACTED] PA-C. It reads in part that "The above captioned patient has been diagnosed with both a seizure disorder which is uncontrolled and bulging disk of L4-5 and L5-S1, both of these conditions contribute to he's urine and fecal incontinence." The consultation report from Dr. [REDACTED] dated 10/20/2003 reads in part the patient "hasn't never been treated with any seizure medications" and patient's wife described a "history of incontinence, but the patient anyways is incontinent and wears diapers even without seizures, because of some nerve damage secondary to a previous back injury at the age of 17 or 18." The physician reviewer affirmed the denial as no cause given for urinary incontinence.
- 4) The Claimant was notified in a letter (D-3) dated January 11, 2006 of the denial of his request for incontinence supplies. The letter stated, in part:

WVMI received your request for reconsideration of the initial denial of authorization for the above listed patient. After due consideration of all relevant factors including documentation in the medical record and any additional information provided, WVMI upheld the initial denial.

After reviewing the additional documentation provided, the physician reviewer has affirmed the original denial. This is in reference to your request for 192 disposable undergarments per month. The information provided did not provide a diagnosis that explains the cause of the incontinence.
- 5) Testimony from Ms. ____ revealed that a doctor no longer in the area had diagnosed Mr. ____ with chronic diarrhea. He has seizure disorders and with his bulging disc he has nerve damage and when he sleeps at night he has no feeling. Mr. ____ needs the pads more at night. He also wears them during the day.
- 6) The Department does not have a diagnosis of fecal incontinence on the Certificate of Medical Necessity. Testimony from the Department's witnesses reveals that all they have is the diagnoses of diarrhea and urine incontinence. Incontinence is an ongoing process, not just at night.
- 7) West Virginia Bureau for Medical Services Provider Manual Chapter 500 dictates that prior authorization must be obtained for incontinence supplies.
- 8) The policy for Incontinence may be found at the Bureau for Medical Services Website under Adult/Pediatric Incontinence Guidelines (D-4).

SYMPTOMS OF URINARY DIFFICULTY

PAINFUL URINATION

- Cystourethral Inflammation
- Urethral Stricture
- Psychogenic

INCREASED FREQUENCY – URGENCY

- Increased fluid intake of any cause (e.g. diabetes, alcoholism)
- Cystourethral Inflammation
- Psychogenic
- Partial outlet obstruction (e.g. prostatic hypertrophy)
- Neurogenic
 - Damage to prefrontal or spinal inhibitory pathways.
 - Spinal reflex facilitation

INCONTINENCE

RETENTION-OVERFLOW: Dribbling or small volumes, pain in pelvic, or flanks, palpable bladder
Cause as listed with retention, below.

CONFUSIONAL: Small or large volume, usually shameless

“SPASTIC”: Variable volume, sporadic occurrence, prominent urgency, emptying complete

- Prefrontal lesion
- Extra medullary advance spinal compression
- Occasionally partial outlet obstruction
- Severe cystitis (small bladder volume)
- Circumstance: bedridden or crippled elderly with facilities remote

INTRASPINAL LESIONS: Moderate volumes, brief urgency, frequent occurrence, high residual urine
Intramedullary cervical–thoracic- lumber lesions (multiple sclerosis, neoplasms, etc.)

RETENTION:

- Acute or chronic outflow obstruction
- Acute neurological disease

PERIPHERAL: Autonomic polyneuropathy, pelvic trauma, caudal equine compression, conus lesions

CENTRAL: poliomyelitis, spinal transaction

DRUG: (usually plus local structural problems) Anticholinergics, antidepressants, opiates

PSYCHOGENIC:

Documentation Requirements:

1. Certificate of Medical Necessity (CMN) – Refer to Chapter 500, DME/Medical Supplies, Manual, Attachment III, for CMN and instructions.

Diagnoses and ICD-9-CM Codes:

Sample diagnoses with documented signs and symptoms of urinary/fecal incontinence are as follows. This list should not be considered all inclusive.

- a) Developmental delay/retardation
- b) Neurogenic bladder due to spinal cord injury, pelvic trauma, neurological illness such as MS or muscular dystrophy, pelvic surgery resulting in pelvic nerve compromise
- c) Congenital anomalies of the urogenital /anorectal system
- d) Pelvic radiation therapy
- e) Dementia
- f) Immobility secondary to para/quadruplegia/stroke
- g) Disease –specify- which results in irreversible loss of control of the urinary bladder and/or anal sphincter
- h) drug-induced
- i) Retention overflow conditions such as bladder outlet obstruction,
- j) Interstitial cystitis
- k) Other possible diagnoses (non-inclusive)
 - Spinal cord compression
 - Autonomic polyneuropathy
 - Cauda equine syndrome
 - Poliomyelitis
 - Myelomeningocele
 - Normal Pressure Hydrocephalus
 - Spinal cord tumor

335.20 - 335.9	Motor neuron disease
340	Multiple sclerosis
342.00 - 342.92	Hemiplegia and hemiparesis
344.00 - 344.09	Quadriplegia and quadriplegia
344.1	Paraplegia
344.30 - 344.32	Monoplegia of lower limb
344.60 - 344.61	Cauda equina syndrome
344.9	Paralysis, unspecified
569.42	Anal or rectal pain
596.51 - 596.59	Other functional disorders of bladder
598.9	Urethral stricture, unspecified
599.81 - 599.83	Other specified disorders of urethra and urinary tract
600.00 - 600.91	Hyperplasia of prostate
618.00 - 618.1	Genital prolapse
728.2	Muscular wasting and disuse atrophy, not elsewhere classified
788.1	Dysuria

788.20 - 788.29	Retention of urine
788.41 - 788.43	Frequency of urination and polyuria
788.61	Other abnormality of urination
154.0 - 154.8	Malignant neoplasm of rectum, recto sigmoid junction, and anus
171.6	Malignant neoplasm of connective and other soft tissue of pelvis
180.0 - 180.9	Malignant neoplasm of cervix uteri
185	Malignant neoplasm of prostate
188.0 - 188.9	Malignant neoplasm of bladder
189.3	Malignant neoplasm of urethra
189.4	Malignant neoplasm of paraurethral glands
197.5	Secondary malignant neoplasm of large intestine and rectum
198.82	Secondary malignant neoplasm of genital organs
233.4	Carcinoma in situ of prostate
235.2	Neoplasm of uncertain behavior of stomach intestines and rectum
236.5	Neoplasm of uncertain behavior of prostate
239.5	Neoplasm of unspecified nature of other genitourinary organs
596.0	Bladder neck obstruction
600.00	Hypertrophy (Benign) of prostate without urinary obstruction
600.01	Hypertrophy (Benign) of prostate with urinary obstruction
600.10	Nodular prostate without urinary obstruction
600.11	Nodular prostate with urinary obstruction
600.20	Benign localized hyperplasia of prostate without urinary obstruction
600.21	Benign localized hyperplasia of prostate with urinary obstruction
600.3	Cyst of prostate
600.90	Hyperplasia of prostate unspecified without urinary obstruction
600.91	Hyperplasia of prostate unspecified with urinary obstruction
601.0 - 601.9	Inflammatory disease of prostate
602.0 - 602.9	Other disorders of prostate
787.6	Incontinence of feces
998.6	Persistent postoperative fistula not elsewhere classified
V10.05	Personal history of malignant neoplasm of large intestine
V10.06	Personal history of malignant neoplasm of rectum rectosigmoid junction and anus

VIII. CONCLUSIONS OF LAW:

- 1) The Bureau for Medical Services must provide prior authorization before payment of incontinence supplies can be approved.
- 2) In conjunction with this provision, the Claimant's physician completed a Certificate of

Medical Necessity, which was signed on December 10, 2005 and received by WVMI on December 14, 2005. The diagnoses listed were incontinence (788.30) due to seizure disorder (780.39) and chronic diarrhea (787.91).

- 3) Adult/Pediatric Incontinence Guidelines do not list the above diagnoses in the list of eligible diagnoses.
- 4) The Department's denial of payment for incontinence supplies is valid.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the Claimant's request for payment of incontinence supplies through the Medicaid Program.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 30th Day of June 2006.

**Margaret M. Mann
State Hearing Officer**

**CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION
For
Public Assistance Hearings,
Administrative Disqualification Hearings, and
Child Support Enforcement Hearings**

A. CIRCUIT COURT

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

C. THE UNITED STATE DEPARTMENT OF AGRICULTURE

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.