



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 21, 2006

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 15, 2006. Your appeal was based on the Department of Health and Human Resources' denial of payment 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.

Current Medicaid regulations state as follows: Specified medical services and/or supplies require prior approval and must be determined medically necessary. (West Virginia Bureau for Medical Services Provider Manual Section 500)

Information submitted at the hearing reveals that documentation fails to support medical necessity for the requested incontinence supplies.

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

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Evelyn Whidby, BMS

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v. Action Number 06-BOR-1585

**West Virginia Department of Health & Human Resources,
Respondent.**

DECISION OF THE STATE HEARING EXAMINER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on June 21, 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 on June 15, 2006 on a timely appeal filed March 13, 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
_____, Claimant's care giver

The following individuals participated telephonically:
Dr. Sandra Joseph, Medical Director, Bureau for Medical Services
Patricia Woods, Nurse Administrator, Bureau for Medical Services
Virginia Evans, Claims Representative, Bureau for Medical Services
Evelyn Whidby, Appeals Coordinator, Bureau for Medical Services (observing)
Nora McQuain, RN, Bureau for Medical Services (observing)

Presiding at the hearing was Pamela Hinzman, 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 Durable Medical Equipment/Medical Supply Manual Chapter 500

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits

- D-1 Information from Dr. [REDACTED] and [REDACTED]
- D-2 Results of medical review by West Virginia Medical Institute
- D-3A Reconsideration information from Dr. [REDACTED]
- D-3B Notice of Denial
- D-4 West Virginia Medicaid Adult/Pediatric Incontinence Guidelines

Claimant's Exhibit

- C-1 Letter from [REDACTED]

VII. FINDINGS OF FACT:

- 1) Dr. [REDACTED] signed a Certificate of Medical Necessity (CMN) (D-1) for the Claimant to obtain 128 adult disposable diapers per month as a result of stress/urge incontinence and complications of a neurogenic bladder.
- 2) The Claimant was notified in a Notice of Initial Denial (D-2) dated December 27, 2005 of the denial of payment for incontinence supplies. The letter states, in part:

Physician review of information regarding the current medical needs of the patient indicated above has determined the requested services cannot be authorized.

This determination was made for the following reason:

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 regard to your request for incontinence supplies. The diagnosis of stress and urge incontinence are not approvable for this Medicaid program.

- 3) Dr. [REDACTED] submitted a request for reconsideration (D-3A) dated January 25, 2006 which states:

Please reconsider authorizing the use of disposable diapers for this patient. Ms. ____ suffers with type II diabetes and diabetic neuropathy. She has had extensive spine surgery in which rods were placed. She also has had three surgeries due to a prolapsed bladder. A post void residual with 90ccs of urine was obtained on January 16, 2006. She has a difficult time controlling her bladder; therefore, the use of diapers is required.

- 4) West Virginia Medical Institute affirmed the initial denial in a letter to the Claimant dated February 27, 2006 (D-3B).
- 5) Dr. [REDACTED] testified that Medicaid excludes payment for incontinence supplies on the basis of stress and/or urge incontinence and bladder prolapse. Dr. [REDACTED] had indicated that the Claimant has a neurogenic bladder due to rods which have been placed in her back, but Dr. [REDACTED] testified that Medicaid medical and pharmacy claims fail to document any conditions regarding back/urinary tract treatment or neurological deficits involving the back. She testified that, while Dr. [REDACTED] indicated the Claimant has 90ccs of post void residual, post void residual is not considered pathologic until it totals more than 200ccs. She testified that Dr. [REDACTED] is not a urologist and his information is not supported by data in the Medicaid claims system.
- 6) The Claimant testified that she has a daughter with cerebral palsy and lifting the daughter has caused her bladder to drop three times. She also testified that she takes 80 milligrams of fluid pills per day and has difficulty controlling her bladder.
- 7) Specified medical services and/or supplies require prior approval and must be determined medically necessary, according to West Virginia Bureau for Medical Services Provider Manual Section 500.
- 8) West Virginia Bureau for Medical Services Provider Manual Chapter 500, Attachment I dictates that prior authorization must be obtained for incontinence supplies.
- 9) Adult/Pediatric Incontinence Guidelines (D-4) do not list stress/urge incontinence as a condition for which incontinence supplies can be authorized. These guidelines do list neurogenic bladder due to spinal cord injury, pelvic trauma, neurological illness such as multiple sclerosis or muscular dystrophy and pelvic surgery resulting in pelvic nerve compromise under a policy section concerning sample diagnoses with documented signs and symptoms of urinary/fecal incontinence. The guidelines indicate that incontinence supplies can be authorized for neuromuscular defects.

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 requesting Medicaid payment for 128 adult diapers per month due to stress/urge incontinence and neurogenic bladder.
- 3) Policy does not list stress/urge incontinence as a diagnosis for which incontinence supplies can be authorized and Dr [REDACTED] testified that the Claimant's Medicaid claims do not provide documented evidence to support the existence of a neurogenic bladder.
- 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 21st Day of June 2006.

**Pamela L. Hinzman
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.