



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

February 10, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 11 and February 9, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage for enteral tube feeds (formula).

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: enteral feeding tubes are a non-covered service under the Medicaid Program (Medicaid Regulations Chapter 500-17, Attachment I May 1, 2005).

The information which was submitted at your hearing revealed that enteral tube feeds (formula) are a non-covered service under the Medicaid Program.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny Medicaid coverage for enteral tube feeds.

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: 05-BOR-6292

**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 February 9, 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 February 9, 2006 on a timely appeal, filed June 22, 2005. It should be noted that the hearing was originally scheduled for January 11, 2006 but was rescheduled after the hearing was convened and the claimant stated that he had not received the evidence packet from the Department.

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.
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 enteral tube feeds (formula).

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:

- D-1 Copy of letter to _____ from the _____ Clinic 6-3-05 (2 pages).
- D-2 Copy of letter to _____ 6-24-05.
- D-3 Copy of regulations from Medicaid Chapter 500 (2 pages).

VII. FINDINGS OF FACT:

- 1) A request for authorization for Medicaid coverage for enteral formula was submitted for the claimant by _____ MD of the _____ Clinic Foundation on 6-3-05 (Exhibit #D-1).
- 2) The request for Medicaid coverage for enteral tube feeds (formula) was denied as a non-covered service with notification sent to _____ Social Worker at the _____ Clinic on 6-24-05 (Exhibit #D-2).
- 3) A hearing request was received by the Bureau for Medical Services on 6-22-05 and by the State Hearing Officer on 11-28-05.
- 4) The hearing was convened on 1-11-06 but the claimant testified that he had not received the evidence packet marked as Exhibit #D-1 through #D-3 and the hearing was rescheduled and the claimant testified on 2-9-06 that he did receive the evidence packet.
- 5) Ms. Woods testified 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 enteral formula, nutritionally complete, hydrolyzed proteins (amino acids and peptide chain), includes fats, carbohydrates, vitamins and minerals, may include fiber, administered through enteral feeding tube 100 calories=1 unit is a non-covered service through the Medicaid Program (Exhibit #D-3).

- 6) Mr. _____ testified that he does not understand why the Medicaid Program covers the bags and pumps he uses but will not cover the formula he needs, that he is down to 116 lbs. and needs it, that it is the one drink his body tolerates.
- 7) Mr. _____ testified that he had contacted Dr. [REDACTED] about sending additional documentation but the State Hearing Officer received no additional information or documentation from Dr. [REDACTED]
- 8) 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:

“DESCRIPTION

B4153 ENTERAL FORMULA, NUTRITIONALLY COMPLETE, HYDROLYZED PROTEINS (AMINO ACIDS AND PEPTIDE CHAIN), INCLUDES FATS, CARBOHYDRATES, VITAMINS AND MINERALS. MAY INCLUDE FIBER, ADMINISTERED THROUGH AN ENTERAL FEEDING TUBE, 100 CALORIES = 1 UNIT.

SERVICE LIMIT

NON-COVERED”

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 Enteral Formula is a non-covered service under the Medicaid Program. While some of the equipment for enteral tube feeds are covered by the Medicaid Program, the formula is not a covered service.

IX. DECISION:

It is the decision of the State Hearing Officer that the Department took the correct action to deny Medicaid coverage for enteral tube feeds (formula).

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 10th Day of February, 2006.

**Thomas M. Smith
State Hearing Officer**