



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
Board of Review  
235 Barrett Street  
Grafton WV 26354  
January 23, 2006

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 14, 2005. Your hearing request was based on the Department of Health and Human Resources' denial of your request for Medicaid coverage for a physical therapy services.

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 determined based on current regulations. Some of these regulations state as follows: WV Medicaid does not cover the following occupational/physical therapy services: Therapy services in excess of 20 visits provided for chronic conditions, such as arthritis, cerebral palsy and developmental delay. Chronic condition is defined as a condition lasting 6 months or greater. (Medicaid Program Manual (Chapter- 500, § 505)

Information provided reveals that 20 physical therapy sessions were covered under Medicaid in 2005 and additional sessions would have entailed prior approval. By definition, a chronic condition was established as of July 2005.

It is the decision of the State Hearing Examiner to **uphold** the determination of the Agency denying Medicaid coverage for additional physical therapy sessions in calendar 2005 as was set forth in the July 15, 2005 notification.

Sincerely,

Ron Anglin  
State Hearing Examiner  
Member, State Board of Review

cc: Chairman, Board of Review  
Bureau for Medical Services, Lynn Collins

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

\_\_\_\_\_,  
Claimant,

v. Action Number 05-BOR- 6474

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 January 23, 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 December 14, 2005 on a timely appeal filed August 19, 2005.

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 of 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  
\_\_\_\_\_, homemaker, \_\_\_\_\_ Center  
\_\_\_\_\_, PT, \_\_\_\_\_ Hospital

Lynn Collins, Bureau for Medical Services. (by phone)

Barbara White, Bureau for Medical Services (by phone)

Liz Miller, RN, West Virginia Medical Institute (by phone)

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Agency was correct in denial of the claimant's request for Medicaid coverage for a physical therapy services?

#### **V. APPLICABLE POLICY:**

(West Virginia) Medicaid Program Manual Chapter- 500, §550

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

D-1 - Prior Authorization Request, 7/1/05 with documentation

D-2 - Notification of denial, 7/15/05

D-3 - WV Medicaid Policy 500- 580

#### **VII. FINDINGS OF FACT:**

1) Notification was provided in a letter dated July 15, 2005 of the denial of the claimant's July 1, 2005 request for a physical therapy services. A hearing was requested August 19, 2005. This request was received by this examiner from BMS September 19, 2005. This hearing was scheduled for November 9 and rescheduled at the agency's request and convened December 14, 2005.

2) Exhibits as noted in Section VI above were accepted during the hearing. As agreed by all parties the agency provided policy (D-3) post hearing which was mailed to the claimant December 16, 2005

3) Testimony was heard from the individuals noted in section III above. All persons giving testimony were placed under oath.

4) Testimony reveals that 20 PT sessions per calendar year can be covered without prior approval. The claimant had in-patient therapy from 7/04- 11/04. She received in-home therapy 11/19/04 to 6/10/05 thru Home Health. She began out-patient therapy thru [REDACTED] beginning 6/14/05. She had little movement on lower extremities. She made good progress. She can now walk with a walker up to 65 feet and sit unsupported. She is an ADW waiver recipient. Medicaid coverage for a new series of sessions will begin January 1, 2006.

5) Medicaid Program Manual (Chapter 500 § 505 states in part – WV Medicaid does not cover the following occupational/physical therapy services: Occupational/physical therapy services in excess of 20 visits provided for chronic conditions, such as arthritis, cerebral palsy and developmental delay. Chronic condition is defined as a condition lasting 6 months or greater.

#### **VIII. CONCLUSIONS OF LAW:**

1) Policy provides occupational/physical therapy services in excess of 20 visits are not covered services unless prior approval has been granted. Evidence reveals that Medicaid coverage for 20 sessions was provided to the claimant in calendar 2005. Thus coverage for additional sessions would be subject to prior approval.

2) Medicaid coverage, beyond 20 sessions, is not authorized for chronic conditions. By definition, a chronic condition is a condition lasting 6 months or longer. The claimant's date of onset was July 2004. Under current policy the claimant's condition clearly qualifies as chronic and therefore ineligible for Medicaid reimbursement beyond the yearly allocation.

#### **IX. DECISION:**

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency as set forth in the July 15, 2005 notification.

#### **X. RIGHT OF APPEAL:**

See Attachment.

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 23<sup>rd</sup> Day of January, 2006.**

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**RON ANGLIN**  
**State Hearing Examiner**

**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.