



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 3, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 27, 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.

Current Medicaid regulations provide as follows: The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Any service, procedure, item, or situation not addressed in policy must be presumed non-covered unless informed otherwise in writing by the Bureau for Medical Services (BMS). Specified services and/or supplies require prior approval and must be determined medically necessary (West Virginia Bureau for Medical Services Provider Manual § 500)

The information submitted at the hearing fails to establish "medical necessity" based on the lack of a documented qualifying diagnosis.

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

Sincerely,

Thomas E. Arnett
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
Evelyn Whidby, BMS

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,

Claimant,

v.

Action Number 05-BOR-7045

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 May 3, 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 March 27, 2006 on a timely appeal filed September 14, 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 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 (appeared telephonically from her home)
Virginia Evans, Claims Representative, BMS (appeared telephonically from BMS)
Patricia Woods, RN, BMS (appeared telephonically from BMS)
Evelyn Whidby, Appeals Coordinator, BMS (Observing from BMS)

Presiding at the hearing was Thomas E. Arnett, 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 Department is correct in denying the Claimant's request for incontinence supplies.

V. APPLICABLE POLICY:

Adult/Pediatric Incontinence Guidelines, HCPCS A4520 and A4554 – 5 pages
West Virginia Bureau for Medical Services Provider Manual Chapter 500

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Exhibit A Information received from [REDACTED] M.D. and [REDACTED] Medical
Exhibit B Results of medical review by West Virginia Medical Institute (WVMI)
Exhibit C West Virginia Medicaid Adult/Pediatric Incontinence Guidelines.

VII. FINDINGS OF FACT:

- 1) On or about August 24, 2005, West Virginia Medical Institute (WVMI) notified the Claimant via a Physician /Provider Notice of Denial Determination (exhibit B) that her request for diapers and underpads was denied. The reason for denial is - "The diagnosis of stress/urge incontinence is a non-covered diagnosis for incontinent supplies as established by WV Medicaid policy."
- 2) The Department cited the medical documentation included in exhibit A. The Certificate of Medical Necessity completed by the Claimant's physician and was used by WVMI to make the Claimant's eligibility determination for Medicaid coverage of incontinence supplies. The Certificate of Medical Necessity includes the following ICD9-Codes (Clinical Diagnosis):
788.33 "Mixed Incontinence," stress or urge incontinence
435.8 "Trans Cerebral Ischemia"
- 3) It was noted by the Department that neither of the Claimant's diagnoses are include on the list of eligible diagnosis found in exhibit C. Because the Claimant does not present an eligible diagnosis, incontinence supplies cannot be covered by Medicaid.
- 4) Testimony received from the Department indicates that Medicaid used to pay for incontinent supplies for recipients of Medicaid without prior authorization, however, a change in policy has resulted in a prior authorization process requirement that must show medical necessity (eligible diagnosis).
- 5) West Virginia Bureau for Medical Services Provider Manual § 500: INTRO

The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Covered and authorized services must be rendered by enrolled providers within the scope of their license and in accordance with all State and Federal requirements. Any service, procedure, item, or situation not discussed in the manual must be presumed non-covered unless informed otherwise in writing by the Bureau for Medical Services (BMS).

- 6) West Virginia Bureau for Medical Services Provider Manual § 503:
COVERED DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES
DME/medical supplies and other related services/items provided through DME are considered for reimbursement by WV Medicaid when requested by a prescribing practitioner and determined medically necessary to meet the basic health care needs the member.
- 7) Bureau for Medical Services Adult/Pediatric Incontinence Guidelines HCPCS and A4554 provides sample diagnoses and ICD-9-CM Codes. The diagnoses provided by the Claimant's physician are included in this list.

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 (CMN), which was signed on June 3, 2005, and received by WVMH on June 16, 2005.
- 3) In accordance with WV Medicaid policy, because the CMN fails to provide an eligible diagnosis, the Department acted within policy guidelines in denying payment for the Claimant's incontinence supplies.

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 3rd Day of May 2006.

**Thomas E. Arnett
State Hearing Examiner**