



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton WV 26354
March 29, 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 February 1, 2006. Your hearing request was based on the Department of Health and Human Resources' denial of your request for continence supplies under Medicaid.

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 which was submitted at the hearing failed 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 August 31, 2005 determination of the Agency.

Sincerely,

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
Bureau for Medical Services, Patricia Woods

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

Claimant,

v.

Action Number 05-BOR- 7047

**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 March 28, 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 February 1, 2006 on a timely appeal filed November 2, 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: All parties participated by phone conference

_____, claimant

_____, friend to claimant

Patricia Woods, RN Administrator, Bureau for Medical Services.)

Virginia Evans, Claims Representative, Bureau for Medical Services

Tina Green, RN, West Virginia Medical Institute

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

IV. QUESTION TO BE DECIDED:

Was the agency in compliance with policy in denial of the claimant's continence supplies request?

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:

E-1 - Certificate of Medical Necessity, 6/30/05

E-2 - WVMI/DME Report, 8/12/05

E-3 - Notification of denial, 8/16/06

E-4 - Statement, Dr. [REDACTED] 8/19/05

E-5 - Reconsideration of Initial Denial Determination, 8/25/05

E-6 - Notification of Reconsideration denial, 8/31/05

E-7 - Adult/Pediatric Incontinence Guidelines, HCPCS A4520 and A4554 – 5 pages

VII. FINDINGS OF FACT:

1) The claimant was notified in a letter dated August 16, 2005 of the denial of her June 30, 2005 for continence supplies. A request for reconsideration was submitted August 19, 2005 and notification of reconsideration denial provided August 31, 2005. A hearing was requested November 2, 2005 regarding denials. This request was received by the Board of Review December 21, 2005. A hearing was convened February 1, 2006 with all parties participating by phone.

2) Exhibits as noted in Section VI above were accepted during the hearing.

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

4) Exhibit E-1, Certificate of Medical Necessity of 6/30/05 provides diagnoses of DM II –well controlled, Morbid Obesity, Renal Insufficiency, and osteoarthritis. Page 2 notes “urge incontinence”.

5) Exhibit E-2, WVMI DME Report of 8/12/05 states in part:

Clinical Summary: 8/12/05 Dx DM type II, morbid obesity, renal insufficiency, osteoarthritis requesting 150 diapers/month. According to info, incontinence is urge incontinence, will refer to physician-not appropriate. trg
A handwritten notation below text, “deny, Dx not covered, (initials?), 8/15/05

6) Exhibit E-3, denial notification of 8/16/05 reads in part: “Urge incontinence is a non-covered diagnosis for incontinence supplies as established in WV Medicaid criteria.”

7) Exhibit E-4, statement from Dr [REDACTED] dated 8/19/05 for the purpose of a medical reconsideration states in part: “Her diagnosis is urinary incontinence secondary to overactive bladder. The condition is exacerbated by the necessity of diuretics which she requires for her hypertension and edema diagnoses. The expected duration of her needing these diapers is permanent with a poor prognosis of improvement. She has been tried on medicines for her overactive bladder which resulted in urinary retention requiring urgent catheterization.”

8) Exhibit E-5, Reconsideration of Initial Denial Determination, 8/25/05 states: “Request is not covered by Medicaid guidelines. Agree with denial.”

9) 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 of the member.

10) 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).

12) West Virginia Bureau for Medical Services Provider Manual Chapter 500 attachment:
WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES BUREAU FOR MEDICAL SERVICES HCPCS CODES
FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES
***PRIOR AUTHORIZATION MUST BE OBTAINED IF SERVICE LIMITS ARE EXCEEDED**
A4520 INCONTINENCE GARMENT, ANY TYPE, (E.G. BRIEF, DIAPER), EACH A4521 THRU A4535, 250 PER MONTH **PRIOR
AUTHORIZATION REQUIRED**
AVAILABLE ONLY FOR MEMBERS 3 YEARS OR OLDER. WHEN BILLING SINGLE INCONTINENT SUPPLIES (A4520 OR
A4554) OR A COMBINATION OF THE TWO, THE TOTAL MAXIMUM IS 250 ITEMS PER MONTH. NO AUTHORIZATION WILL
BE GIVEN OVER THIS MONTHLY ALLOWABLE.

13) Bureau for Medical Services Adult/Pediatric Incontinence Guidelines HCPCS and
A4554 provide: 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

VIII. CONCLUSIONS OF LAW:

1) Policy holds that certain medical supplies covered by the Medicaid Program require
prior authorization. Continence pads are clearly one of such supplies.

2) Prior authorization entails a determination of “Medical Necessity.” A determination that
the claimant’ request for incontinence supplies did not qualify as a matter of “Medical
Necessity” was made by the agency on 8/16/05 indicating the absence of a qualifying
diagnosis.

3) Policy set forth in the agency’s Adult/Pediatric Incontinence Guidelines, while noting a
number of qualifying diagnoses, does not include any of those documented by the
claimant- DM II, Morbid Obesity, Renal Insufficiency, and osteoarthritis. Evidence fails to
establish the existence of a qualifying listed or equivalent diagnosis.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am compelled to **uphold** the determination of the Agency as set forth in the August 16 and August 31, 2005 notifications.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 29th Day of March 2006.

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.