



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street West
Charleston, WV 25313

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 9, 2006

Ms. _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 8, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny incontinent supplies.

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:

Prior approval is necessary for specified services to be delivered for an eligible client by a specified provider before services can be performed, billed, and payment made. A utilization review method used to control certain services which are limited in amount, duration, or scope. (West Virginia Provider Manual Chapter 200 – Definitions).

The information submitted at your hearing revealed: You do not have a qualifying diagnosis for program purposes.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny incontinent supplies.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Patricia Woods, RN – BMS

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____,

Claimant,

v.

Action Number: 05-BOR-7048

**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 Ms. _____. 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 February 8, 2006 on a timely appeal filed October 3, 2005.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision. A pre-hearing conference was not held between the parties and; Ms. _____ did not have legal representation.

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:

_____, Claimant*
_____, LSW/Social Services Coordinator – _____*
Patricia Woods, RN/Nurse Administrator – Bureau for Medical Services (BMS)
Virginia Evans, Claims Representative – Bureau for Medical Services (BMS)
Paula Clark, RN – West Virginia Medical Institute (WVMI)
Tina Green, RN – West Virginia Medical Institute (WVMI)
*Participated by conference call

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: Did Ms. _____ have an eligible diagnosis?

V. APPLICABLE POLICY:

Bureau for Medical Services Adult/Pediatric Incontinence Guidelines 08/16/05 and;
West Virginia Provider Manual Chapter 200 – Definitions

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Certificate of Medical Necessity dated 04/07/05 & 05/24/05
- D-2 WVMI DME Report dated 05/03/05
- D-3 Notice of Initial Denial – DME Review dated 06/13/05
- D-4 Letter from _____ M.D. dated 08/31/05
- D-5 Reconsideration of Initial Denial Determination dated 09/19/05
- D-6 Second Denial Letter dated 09/22/05
- D-7 Letter from _____ M.D. dated 09/27/05
- D-8 Report from _____ Association dated 10/04/05
- D-9 Request for Hearing dated 09/26/05
- D-10 Bureau for Medical Services Adult/Pediatric Incontinence Guidelines 08/16/05
- D-11 Miscellaneous Hearing Documents

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

1) Ms. _____ is a 64 year old woman with diagnoses of urinary incontinence, morbid obesity and edema. The West Virginia Medical Institute (WVMI) denied Ms. _____'s request for incontinent supplies, after reviewing the Certificate of Medical Necessity. The

WVMI based their denial on Bureau for Medical Services policy found at West Virginia Medicaid Adult/Pediatric Incontinence Guidelines dated August 16, 2005. WVMI is the utilization review organization contracted by BMS to perform pre-service and authorization for services subject to limitations, as Durable Medical Equipment (DME), Orthotics, Prosthetic Services, and Medical Supplies.

2) A Certificate of Medical Necessity (CMN) was signed by Dr. [REDACTED] M.D., on April 7, 2005. The clinical diagnoses were listed as Urinary Incontinence; Morbid Obesity and; Edema. Dr. [REDACTED] summarized Ms. _____'s need for the incontinent garments/underpads as "Limited mobility due to severe arthritis in both knees and morbid obesity." On the first page of the CMN is written "Approve." The hearing representatives from the Bureau for Medical Services and West Virginia Medical Institute could not offer an explanation. **(Exhibit D-1)**.

Dr. [REDACTED] certified on page 2 of a CMN dated May 24, 2005 that, "The Etiology of Patient's Incontinence" was due to Morbid Obesity; Severe Arthritis Both Knees; Wheelchair Bound and; Rectocele and Cystocele. Dr. [REDACTED] did not list any therapies that have failed to correct the incontinence. The hearing representatives from WVMI attributed the lack of response from Dr. [REDACTED] as part of the denial.

3) A WVMI DME Report was filed by [REDACTED] Service (Provider), on behalf of Ms. _____, on May 3, 2005. The preauthorization was for incontinence garments and pads. The Primary Diagnosis was listed as Unspecified Urinary Incontinence. The Clinical Summary states in part, "Patient is incontinent due to obesity; severe arthritis of knees; wheelchair bound; rectocele and cystocele." **(Exhibit D-2)**.

4) The WVMI issued a "Notice of Denial – DME Review" dated June 13, 2005 **(Exhibit D-3)**. It stated in part,

After review of the information provided, it was determined that the request services do not meet medical necessity and therefore, cannot be authorized. This is in reference to your request for underpads and poise pads. The documentation provided does not indicate this service is medically necessary.

5) [REDACTED] M.D. of the [REDACTED] Association, appealed the WVMI decision in a letter dated August 31, 2005 **(Exhibit D-4)**. According to Dr. [REDACTED] "She (Ms. _____) describes marked urinary frequency and urge incontinence." The WVMI hearing representatives pointed out that "urge incontinence" is not an eligible diagnosis according to the BMS policy. Ms. _____ expressed her agreement with Dr. [REDACTED]'s diagnoses.

6) The WVMI reaffirmed their decision in a Reconsideration of Initial Denial Determination letter on September 19, 2005 **(Exhibit D-5)**. It stated, "Case was denied for non covered diagnosis for incontinence. Rectocele and Cystocele are corrected by surgery."

7) A second denial letter was sent to Ms. _____ from WVMI on September 22, 2005 **(Exhibit D-6)**. It stated in part,

After reviewing the additional documentation provide, the physician reviewer has affirmed the original denial. This is in reference to your

request for incontinence supplies. This case was denied for non-covered diagnosis for incontinence. Rectocele and cystocele are corrected by surgery.”

8) ██████████ M.D. again appealed the WVMI decision in his letter dated September 27, 2005 (**Exhibit D-7**). According to Dr. ██████████ the second denial letter dated September 22, 2005, did not mention his qualifying diagnoses as ‘osteoarthritis and morbid obesity.’ The WVMI did not provide any additional written responses to Dr. ██████████

9) A report from ██████████ Association dated October 4, 2005 (**Exhibit D-8**), lists Ms. _____’s medical history including diagnoses and medications.

10) Ms. _____ requested a fair hearing on September 26, 2005 (**Exhibit D-9**). It was received by the Bureau for Medical Services on October 3, 2005. The State Board of Review received the request on December 19, 2005 and, the State Hearing Officer on January 3, 2006. Ms. ██████████ a Licensed Social Worker in Ms. _____’s housing complex, expressed her dissatisfaction in the delay in processing the hearing request.

11) The policy for Incontinence may be found at the Bureau for Medical Services Website under Adult/Pediatric Incontinence Guidelines 08/16/05 (**Exhibit D-10**).

SYMPTOMS OF URINARY DIFFICULTY

PAINFUL URINATION

- Cystourethral Inflammation
- Urethral Stricture
- Psychogenic

INCREASED FREQUENCY – URGENCY

- Increased fluid intake of any cause (e.g. diabetes, alcoholism)
- Cystourethral Inflammation
- Psychogenic
- Partial outlet obstruction (e.g. prostatic hypertrophy)
- Neurogenic
 - Damage to prefrontal or spinal inhibitory pathways.
 - Spinal reflex facilitation

INCONTINENCE

RETENTION-OVERFLOW: Dribbling or small volumes, pain in pelvic, or flanks, palpable bladder
Cause as listed with retention, below.

CONFUSIONAL: Small or large volume, usually shameless

“SPASTIC”: Variable volume, sporadic occurrence, prominent urgency, emptying complete
Prefrontal lesion
Extra medullary advance spinal compression

Occasionally partial outlet obstruction
Severe cystitis (small bladder volume)
Circumstance: bedridden or crippled elderly with facilities remote

INTRASPINAL LESIONS: Moderate volumes, brief urgency, frequent occurrence, high residual urine
Intramedullary cervical–thoracic- lumbar lesions (multiple sclerosis, neoplasms, etc.)

RETENTION:
Acute or chronic outflow obstruction
Acute neurological disease

PERIPHERAL: Autonomic polyneuropathy, pelvic trauma, cauda equina compression, conus lesions

CENTRAL: poliomyelitis, spinal transaction

DRUG: (usually plus local structural problems) Anticholinergics, antidepressants, opiates

PSYCHOGENIC:

Documentation Requirements:

1. Certificate of Medical Necessity (CMN) – Refer to Chapter 500, DME/Medical Supplies, Manual, Attachment III, for CMN and instructions.

Diagnoses and ICD-9-CM Codes:

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/quadriplegia/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
335.20 - 335.9	Motor neuron disease
340	Multiple sclerosis
342.00 - 342.92	Hemiplegia and hemiparesis
344.00 - 344.09	Quadriplegia and quadriplegia
344.1	Paraplegia
344.30 - 344.32	Monoplegia of lower limb
344.60 - 344.61	Cauda equina syndrome
344.9	Paralysis, unspecified
569.42	Anal or rectal pain
596.51 - 596.59	Other functional disorders of bladder
598.9	Urethral stricture, unspecified
599.81 - 599.83	Other specified disorders of urethra and urinary tract
600.00 - 600.91	Hyperplasia of prostate
618.00 - 618.1	Genital prolapse
728.2	Muscular wasting and disuse atrophy, not elsewhere classified
788.1	Dysuria
788.20 - 788.29	Retention of urine
788.41 - 788.43	Frequency of urination and polyuria
788.61	Other abnormality of urination
154.0 - 154.8	Malignant neoplasm of rectum, recto sigmoid junction, and anus
171.6	Malignant neoplasm of connective and other soft tissue of pelvis
180.0 - 180.9	Malignant neoplasm of cervix uteri
185	Malignant neoplasm of prostate
188.0 - 188.9	Malignant neoplasm of bladder
189.3	Malignant neoplasm of urethra
189.4	Malignant neoplasm of paraurethral glands
197.5	Secondary malignant neoplasm of large intestine and rectum
198.82	Secondary malignant neoplasm of genital organs
233.4	Carcinoma in situ of prostate
235.2	Neoplasm of uncertain behavior of stomach intestines and rectum
236.5	Neoplasm of uncertain behavior of prostate
239.5	Neoplasm of unspecified nature of other genitourinary organs
596.0	Bladder neck obstruction
600.00	Hypertrophy (Benign) of prostate without urinary obstruction
600.01	Hypertrophy (Benign) of prostate with urinary obstruction
600.10	Nodular prostate without urinary obstruction
600.11	Nodular prostate with urinary obstruction
600.20	Benign localized hyperplasia of prostate without urinary obstruction
600.21	Benign localized hyperplasia of prostate with urinary obstruction
600.3	Cyst of prostate
600.90	Hyperplasia of prostate unspecified without urinary obstruction
600.91	Hyperplasia of prostate unspecified with urinary obstruction
601.0 - 601.9	Inflammatory disease of prostate
602.0 - 602.9	Other disorders of prostate

787.6 Incontinence of feces
998.6 Persistent postoperative fistula not elsewhere classified
V10.05 Personal history of malignant neoplasm of large intestine
V10.06 Personal history of malignant neoplasm of rectum rectosigmoid
junction and anus

12) West Virginia Provider Manual Chapter 200 – Definitions:

Prior approval is necessary for specified services to be delivered for an eligible client by a specified provider before services can be performed, billed, and payment made. A utilization review method used to control certain services which are limited in amount, duration, or scope.

13) The policy listed under the Adult/Pediatric Incontinence Guidelines does not list osteoarthritis, morbid obesity or urge incontinence as eligible diagnoses. Ms. _____ does not have an eligible diagnosis to qualify for incontinent supplies.

VIII. CONCLUSIONS OF LAW:

The policy listed under the Adult/Pediatric Incontinence Guidelines lists various diagnoses. It does not list osteoarthritis, morbid obesity or urge incontinence as eligible diagnoses. The diagnoses referred to by [REDACTED] M.D. in his letters dated August 31, 2005 and September 27, 2005, respectively, are considered contributing factors to the problem of incontinence.

IX. DECISION:

It is the decision of this State Hearing Officer to uphold the action of the Department in this particular matter.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of February, 2006.

Ray B. Woods, Jr., M.L.S.
State Hearing Officer