



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

January 31, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 30, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid coverage for incontinence 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: incontinence supplies which are not medically necessary are a non-covered service under the Medicaid Program (Medicaid Regulations Adult/Pediatric Incontinence Guidelines).

The information which was submitted at your hearing revealed that your request for incontinence supplies was based on stress incontinence, which is not medically necessary.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny Medicaid coverage for incontinence supplies.

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
Paula Clark, WVMI

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

_____,

Claimant,

v.

Action Number: 05-BOR-7057

**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 January 30, 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 January 30, 2006 on a timely appeal, filed August 31, 2005.

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. Evelyn Whidby, Appeals Coordinator, Bureau for Medical Services.
4. Paula Clark, R. N., WV Medical Institute.

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 incontinence supplies.

V. APPLICABLE POLICY:

Medicaid Regulations Chapter 500, DME/Medical Supply Manual, Attachment III, for CMN and Instructions.

Adult/Pediatric Incontinence Guidelines, HCPSC A4520 and A4550.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- A Copy of request for Medicaid coverage for incontinence supplies (5 pages).
- B Copy of denial letter 8-5-05 (2 pages).
- C Copy of Medicaid regulations (5 pages).

VII. FINDINGS OF FACT:

- 1) A request for Medicaid coverage for payment of incontinence supplies was submitted to WV Medical Institute (WVMI) on 6-21-05 by All Medical and the Physician statement as to the cause of the incontinence was chronic cough from COPD (Exhibit #A).
- 2) The request for Medicaid coverage was denied on 8-5-05 as it was determined that the claimant had stress incontinence and the incontinence supplies were not medically necessary according to Medicaid Program guidelines (Exhibit #C).
- 3) Notification of denial of Medicaid coverage for incontinence supplies was issued on 8-5-05 (Exhibit #B) and the claimant requested a hearing on 8-31-05.
- 4) The Board of Review received the hearing request on 12-27-05 and the State Hearing Officer received the hearing request on 12-29-05.
- 5) Testimony from Ms. Clark indicated that the Medical Justification for Incontinence Products form completed by the physician indicated stress incontinence and COPD as

diagnoses, that a line was marked through the section related to whether the incontinence was drug induced, and that Adult/Pediatric Incontinence Guidelines require medical necessity and provides a listing of diagnoses which indicate medical necessity and that stress incontinence is not on the list and is not considered medically necessary.

- 6) The claimant testified that she takes several medicines which cause her to cough and causes the incontinence.
- 7) Medicaid Regulations in Adult/Pediatric Incontinence Guidelines, HCPCS A4520 and A4554 states, in part:

“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-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:

Adult/Pediatrics Incontinence Guidelines from Medicaid regulations in HCPCS A4520 and A4554 provide that a Certificate for Medical Necessity (CMN) is required for medical supplies, including incontinence supplies. The listing for diagnoses, while not all inclusive, does not provide for stress incontinence to be considered as medically necessary. The claimant testified that medications were the cause of her incontinence but the physician specified that the cause was stress incontinence and COPD while not including any indication that the incontinence was drug-induced. The evidence shows that the physician's request was based on stress incontinence and the regulations clearly do not allow Medicaid coverage for incontinence supplies which are not medically necessary.

IX. DECISION:

It is the decision of the State Hearing Officer that the Department took the correct action to deny Medicaid coverage for incontinence supplies.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31st Day of January, 2006.

Thomas M. Smith
State Hearing Officer