



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 17, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 3, 2006. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid payment for a Laguna Tilt Shower Chair.

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 Medicaid services is based on current policy and regulations. Some of these regulations state as follows: Any DME/medical supply service, procedure, item or situation not discussed in the manual must be presumed non-covered unless otherwise informed in writing by BMS. In addition, policy states that the most economical items/services that meet the member's basic health care needs will be provided. Expensive items/services are not covered when less costly items/services meet the need for basic health care. (DME/Medical Supply Manual Chapter 500, Section 500 and Attachment I)

Evidence presented at your hearing revealed that tilt shower chairs are not listed as covered items under West Virginia Medicaid.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny Medicaid coverage for a Laguna Tilt Shower Chair.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Evelyn Whidby, BMS

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

_____,

Claimant,

v.

Action Number: 06-BOR-918

**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 May 17, 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 on May 3, 2006 on a timely appeal filed December 22, 2005.

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

_____, mother of Claimant

_____, Day Worker, _____ Health Services

Patricia Woods, Nurse Administrator, BMS (participating telephonically)

Virginia Evans, Claims Representative, BMS (participating telephonically)

Liz Miller, RN, WVMI (participating telephonically)

Evelyn Whidby, BMS, (observing telephonically)

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in its decision to deny Medicaid payment for a Laguna Tilt Shower Chair.

V. APPLICABLE POLICY:

DME/Medical Supply Manual Chapter 500, Sections 500, 504, 505 and Attachment I

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Information from Dr. _____ and National Seating and Mobility

D-2 Results of medical review by WVMI

D-3 DME/Medical Supply Manual Chapter 500, Sections 500, 504 and 505

Claimant's Exhibits

C-1 Certificate of Medical Necessity

VII. FINDINGS OF FACT:

- 1) The Claimant's physician submitted a Certificate of Medical Necessity (CMN) dated September 17, 2005 (D-1) to the West Virginia Medical Institute (WVMI) requesting Medicaid authorization for the purchase of a roll-in shower/commode wheelchair with tilt capabilities at an estimated cost of \$3,163. The Certificate lists a diagnosis for the Claimant of cerebral palsy and spastic quadriplegia.
- 2) Ms. Miller reviewed the CMN and requested that the vendor provide additional information about why a standard shower chair could not be used to meet the Claimant's basic needs.

- 3) A letter from National Seating & Mobility (D-2) indicates that the Claimant has a diagnosis of cerebral palsy, spastic quadriplegia and scoliosis. The Claimant is 60 inches tall and weighs 120 pounds. The letter states:

_____’s size is a safety risk to both _____ and his caregiver. _____ is too heavy and too tall to be safely managed in and out of the bathtub or shower. The spasticity that accompanies this diagnosis adds to the difficulty of transfers. The greatest additional factor that adds risk to the transfer is water and bare skin.

A standard rehab shower bath chair does not have a tilt-n-space option. This is an option that _____ uses everyday to relieve pressure and allows him to be in a seated position. _____ has no trunk balance and cannot hold himself with his arms and hands. He has deformities and contractures of his trunk and all extremities. He is unable to sit in an upright position that a standard rehab shower chair requires.

In conclusion a recommendation is made for a rehab shower chair with a tilt-n-space option that will reduce the risk of injury to _____ and the caregivers. The gravity assisted position will make it possible for _____ to experience regular and safe showers.

- 4) WVMi sent a Notice of Initial Denial (D-2) on October 13, 2005 which indicated that coverage of the Laguna Tilt Shower Chair was denied by the Bureau for Medical Services (BMS) because the device does not meet medical necessity guidelines and cannot be covered by Medicaid. The letter states, in part:

The documentation provided did not support medical necessity for this piece of equipment or clarify why a standard shower chair or an alternative way of bathing (bed baths) would not be sufficient to meet his (the Claimant’s) basic needs.

- 5) The Claimant requested reconsideration of the initial decision in a letter received by WVMi on November 16, 2005, but WVMi upheld the initial denial of authorization in a notice dated December 7, 2005.
- 6) Ms. Miller testified that the Laguna shower chair is not a covered item under the Medicaid program and that documentation from the Claimant’s physician does not support why the chair would be beneficial to the patient in meeting basic needs.
- 7) Ms. _____ testified that the tilt shower chair her son currently utilizes was purchased when he was around seven years old. He is now 23 years old. The Claimant testified about his pain and the difficulty he encounters in showering due to his medical conditions and lack of balance. In addition, he stated that he does not believe a bed bath is an acceptable method of maintaining personal hygiene. Ms. _____ stated that a less expensive chair would be acceptable if a covered alternative could be recommended. Both Ms. Miller and Ms. Woods testified that they know of no tilt shower chairs that are

covered items under Medicaid. The Claimant recommended that the Department reconsider the items Medicaid covers.

8) Ms. _____ provided a copy of a Certificate of Medical Necessity from Dr. [REDACTED] dated December 14, 2005 (C-1) which was completed after the Claimant's request for reconsideration was denied. The Certificate specifies that the tilt shower chair is a permanent necessity for the Claimant due to extreme positioning and seating difficulties and the Claimant's inability to reposition or move. It stated that the chair is required for safer functional use of the shower and toilet. Ms. Woods stressed that this information was not provided to the Department at the time the request was being considered.

9) DME/Medical Supply Manual Chapter 500, Section 500 (D-3) states the following:

Any DME/medical supply service, procedure, item or situation not discussed in the manual must be presumed non-covered unless otherwise informed in writing by BMS.

The most economical items/services that meet the member's basic health care needs will be provided. Expensive items/services are not covered when less costly items/services meet the need for basic health care.

10) DME/Medical Supply Manual Attachment I lists covered/non-covered items under the Medicaid Program. This attachment lists a bath/shower chair, with or without wheels, as an item requiring prior authorization and a cost invoice. The attachment does not address bath/shower chairs with a tilt feature.

11) DME/Medical Supply Manual Chapter 500, Section 504 (D-3) states:

In addition to the documentation requirements identified in Common Chapter 300, Provider Participation Requirements 320.5, DOCUMENTATION AND RETAIN RECORDS, providers submitting claims for Medicaid reimbursement must maintain complete, accurate and legible records documenting medical necessity for equipment and/or supplies provided to meet the basic health care needs of the individual Medicaid member.

12) DME/Medical Supply Manual Chapter 500, Section 505 (D-3) states:

When documentation submitted fails to justify medical necessity for DME or medical supplies, the UMC may request additional information, and/or deny the request for lack of medical necessity.

VIII. CONCLUSIONS OF LAW:

1) The Claimant requested Medicaid coverage for a Laguna Tilt Shower Chair in September 2005.

- 2) Policy reveals that any DME/medical supply service, procedure, item or situation not discussed in the manual must be presumed non-covered unless otherwise informed in writing by BMS. In addition, policy states that the most economical items/services that meet the member's basic health care needs will be provided. Expensive items/services are not covered when less costly items/services meet the need for basic health care.
- 3) Policy in Attachment I to the DME/Medical Supply Manual does not list tilt shower chairs as covered items under the Medicaid Program.
- 4) While convincing medical documentation was presented to reveal the benefits of a tilt shower chair to the Claimant, such chairs are not specifically listed as covered items under the Medicaid Program. Therefore, payment cannot be approved.
- 5) The Department acted correctly in denying Medicaid coverage for the Laguna Tilt Shower Chair.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny Medicaid payment for a Laguna Tilt Shower Chair.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of May 2006.

**Pamela L. Hinzman
State Hearing Officer**