



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

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

November 10, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 1, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization for an E0240 Shower Commode 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 that the DME/Medical Supply Provider must provide most economical items/services that meet the member's basic health care needs. Expensive items are not covered when less costly items/services are available. Durable Medical Equipment/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. Durable Medical Equipment/ medical supply coverage is based on product category not specific item, brand or manufacturer. The most economical items/services will be provided. Expensive items are not covered when less costly items/services are available. (WVDHHR Medicaid Policy Manual, Chapters 506.2.2 and 506.3)

The information presented at your hearing reveals that prior authorization for an E0240 Shower/Commode Chair was not approved because policy states that expensive items are not covered when less costly items/services are available.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for prior authorization for an E0240 Shower/Commode Chair.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Amy Workman, BMS

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

**IN RE:** -----,

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-2079**

**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 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 November 1, 2011.

**II. PROGRAM PURPOSE:**

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

-----, Claimant's representative

Virginia Evans, Department representative

Karen Keaton, Department witness

Presiding at the hearing was Cheryl Henson, 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 prior authorization (PA) for an E0240 Shower Commode Chair.

**V. APPLICABLE POLICY:**

Chapter 506, Durable Medical Equipment/Medical Supply Manual

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Excerpts from Chapter 506, Durable Medical Equipment/Medical Supply Manual
- D-2 Information received from Dr. [REDACTED] M.D., and [REDACTED] Equipment/Supply
- D-3 Notice of Denial Determination by West Virginia Medical Institute
- D-4 Reconsideration request from [REDACTED] Equipment/Supply
- D-5 Reconsideration Determination from West Virginia Medical Institute

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) On or about August 24, 2011, the Claimant was notified by the Department via a Notice of Denial (D-3) that a request for prior authorization (PA) for Medicaid payment for an E0240 Shower Commode Chair was denied. The denial letter included the following pertinent information:

Reason for Denial:

Your request for E0240 SHOWER COMMODOE CHAIR cannot be authorized due to the lack of information required for review.

The request for E0240 OCEAN VIP TILT SHOWER COMMUNE CHAIR cannot be approved, as WV Medicaid Durable Medical Equipment manual lists bath/commode transfer systems as non-covered.

Information was not provided as to whether this is the most cost effective item. No cost comparisons/or rationale was provided as to why a more cost effective chair could/would not meet members needs. Medical necessity is not established.

- 2) On or about September 14, 2011, [REDACTED] Equipment and Supplies requested (D-4) a reconsideration of the decision on the Claimant's behalf and submitted additional information for consideration in the form of a letter dated September 13, 2011, from [REDACTED] which states in pertinent part:

[Claimant] is unable to use a standard shower chair because of lack of upper extremity control in a bathtub or shower unsupported. A special roll in shower was built to accommodate the use of the rehab tilt shower chair for bathing and for the bowel program.

Recommending the VIP tilt shower chair because it is the more economical model and this model worked well for [Claimant] in [REDACTED]

- 3) The Department subsequently denied the request for reconsideration, and sent the Claimant a notice of denial dated September 15, 2011 which included the following pertinent information:

WVMI received your request for reconsideration of the initial denial of authorization for the above listed patient. After due consideration of all relevant factors including documentation in the medical record and any additional information provided, WVMI upheld the initial denial.

After review of all provided information via the reconsideration process, WVMI has upheld the initial denial. Specifically, per Chapter 506, DME/Medical Supplies, Attachment II, bath/commode transfer systems are non-covered.

- 4) The Department witness, Karen Keaton, is a Registered Nurse with West Virginia Medical Institute, the company contracted by the Department to make the decision as to whether to approve a request for prior authorization for durable medical equipment. Ms. Keaton stated that, for requests for shower commode chairs, the information is referred for physician review prior to a determination being made. She added that according to policy a bath/commode transfer system is listed as a non-covered item. She stated that the physician reviewer also questioned whether a less costly item could or would meet the Claimant's needs. She added that no cost comparisons were provided in the request for prior authorization. She stated that when the request for reconsideration was received a second physician reviewer looked at the information and concurred with the original decision. Ms. Keaton stated that she believed the issue with the denial dealt with the cost of the item and whether it is the most economical item that will meet the Claimant's needs. She added that the type of chair that was requested is a

non-covered item, and that a new request would need to be made by the physician for an item that is covered.

- 5) The Claimant's representative, ----, is the Claimant's mother. She stated that the Claimant has been "home" since July 2011 and has not had a shower because she requires special equipment that will ensure that she does not fall out of the chair. She stated the Claimant is unable to get into the shower without the equipment as she has no mobility.
- 6) The Department representative, Virginia Evans, is with the Bureau for Medical Services office. She stated that she does not believe the issue for the denial involves medical necessity. She stated that the Department recognizes that the Claimant has a medical need for the assistance of a shower chair, but added that the real issue for the denial is the cost effectiveness, and that the Department feels that there is other equipment available that would meet the Claimant's health care needs.
- 7) The West Virginia Department of Health and Human Resources (WVDHHR) Durable Medical Equipment/Medical Supply Manual, Section 506 states in pertinent part:

The DME [Durable Medical Equipment] / Medical Supply Provider must: provide most economical items/services that meet the member's basic health care needs. Expensive items are not covered when less costly items/services are available...

Durable Medical Equipment/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.

Durable Medical Equipment/medical supply coverage is based on product category not specific item, brand or manufacturer.

The most economical items/services will be provided. Expensive items are not covered when less costly items/services are available.

## **VIII. CONCLUSIONS OF LAW:**

- 1) WVDHHR Durable Medical Equipment/Medical Supplies Manual states that the Medical Supply Provider must provide the most economical items/services that meet the member's basic health care needs. Expensive items are not covered when less costly items/services are available.
- 2) The evidence shows that the Medical Supply Provider did not provide information regarding whether the expensive item requested was the most cost effective item available that would also meet the Claimant's basic health care needs. The Medical Supply Provider did not submit cost comparisons with the original request or with the request for consideration.

- 3) Evidence is clear in that the Department followed policy in its evaluation and subsequent denial of the physician's request for prior authorization for an E0240 Shower Commode Chair.

**IX. DECISION:**

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny prior authorization of payment for an E0240 Shower Commode Chair.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 10<sup>th</sup> day of November, 2011.**

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**Cheryl Henson  
State Hearing Officer**