



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**150 Maplewood Ave.**  
**Lewisburg, WV 24901**

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

September 5, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 23, 2006. Your appeal was based on the Department of Health and Human Resources' denial of your request for a stander under the Medicaid Program.

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 the Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: Attachment II describes unlisted HCPCS codes for items/services not covered by WV Medicaid. Description/Item – Stander. (Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual Chapter 500, Section 509 and Attachment II)

Information submitted at the hearing revealed that the stander is a non-covered item under WV Medicaid.

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny payment for a stander.

Sincerely,

Margaret M. Mann  
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**

\_\_\_\_\_ ,

**Claimant,**

v.

**Action Number 06-BOR-1755**

**West Virginia Department of Health & Human Resources,**

**Respondent.**

**DECISION OF THE STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on June 23, 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 June 23, 2006 on a timely appeal filed April 24, 2006.

**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 for 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:**

The following individuals participated telephonically:

\_\_\_\_\_ for \_\_\_\_\_, Claimant

Patricia Woods, Nurse Administrator, Bureau for Medical Services

Virginia Evans, Claims Representative, Bureau for Medical Services

Elizabeth Miller, RN, West Virginia Medical Institute

Presiding at the hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Agency complied with policy in denying the request for a stander.

**V. APPLICABLE POLICY:**

WVBMS Durable Medical Equipment/Medical Supply Manual, Chapter 500, Section 509 and Attachment II

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

**Department's Exhibits:**

- D-A Information received from [REDACTED] M.D. and [REDACTED]
- D-B 1) Results of medical review by West Virginia Medical Institute  
2) Notice of Denial Determination by WVMI
- D-C Durable Medical Equipment/Medical Supply Manual, Chapter 500, Section 509 and Attachment II

**VII. FINDINGS OF FACT:**

- 1) A Certificate of Medical Necessity was made by Dr. [REDACTED] for an Easy Stand 5000 Youth (HCPCS code E1399) and accessories for \_\_\_\_\_. (D-A)
- 2) The Provider was notified in a letter (D-B) dated March 31, 2006 of the denial of the request for a stander. The letter stated, in part:

By contract, WVMI reviews requests for services to determine if they are medically necessary.

A positive medical necessity decision does not guarantee payment. BMS reserves the right to deny items or services that are outside coverage or benefit limitations.

Your request was forwarded to BMS for a policy/coverage determination. After due consideration, BMS has denied the following item(s) due to benefit limitation(s). This is in request for a stander and accessories. This item is not covered by WV Medicaid.

- 3) Testimony from Ms. \_\_\_\_\_ revealed that \_\_\_\_\_ needs a stander for weight bearing purposes. She feels it is medically necessary. The family has PEIA which has covered part of

the cost of the stander.

- 4) Testimony from Ms. Woods revealed that the stander is a non-covered item under Medicaid. Even if approved, Medicaid would not pay any additional cost as PEIA is the primary insurance.
- 5) West Virginia Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual, Chapter 500, Section 509 reads in part that Attachment II describes unlisted HCPCS codes for items/services not covered by WV Medicaid. In addition, WV Medicaid does not cover DME/medical supplies and other related services/items provided through DME as stated below. Non-covered service/items cannot be prior authorized nor an exception made for reimbursement: Description/Item: Standers.

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

- 1) The Claimant's physician completed a Certificate of Medical Necessity for a stander and accessories.
- 2) Policy reads that certain items/services are not covered by WV Medicaid. Included in the listing are standers.
- 3) The Department's denial of payment for a stander is valid.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the request for payment of a stander through the Medicaid Program.

### **X. RIGHT OF APPEAL:**

See Attachment.

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 5<sup>th</sup> Day of September, 2006.**

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**Margaret M. Mann**  
**State Hearing Officer**

**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.