

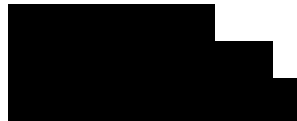


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

February 26, 2015



RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-1184

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

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

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Stacy Broce, BMS, WVDHHR

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1184

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on February 25, 2015, on an appeal filed January 26, 2015.

The matter before the Hearing Officer arises from the January 9, 2015 decision by the Respondent to deny prior authorization of Medicaid coverage for a Bi-Level Positive Airway Pressure (BiPap) device.

At the hearing, the Respondent appeared by Virginia Evans, HHR Specialist, Bureau for Medical Services, WVDHHR. Appearing as a witness for the Respondent was ██████████, RN, Nurse Reviewer, West Virginia Medical Institute. The Claimant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual Section 506.5
- D-2 InterQual 2014.3 Durable Medical Equipment Criteria Noninvasive Airway Assistive Devices
- D-3 Information received from ██████████, M.D., and ██████████.
- D-4 Notices of Initial Denial dated January 9, 2015

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On January 9, 2015, the Respondent issued notices (D-4) to the Claimant, [REDACTED], M.D., and [REDACTED] advising of the denial of Medicaid authorization for a Bi-Level Positive Airway Pressure (BiPap) device.
- 2) West Virginia Medical Institute (WVMI) Nurse Reviewer [REDACTED] testified that documentation submitted by the medical provider (D-3) failed to meet clinical indications in InterQual criteria (D-2). Therefore, medical necessity could not be established and the request for prior authorization was denied. Nurse [REDACTED] indicated that the request was for recertification of ongoing treatment based on the Claimant's diagnosis of obstructive sleep apnea. She stated that the request could not be approved because a compliance summary submitted by the Claimant's physician (D-3) revealed that the Claimant had not utilized the device for at least four hours or more on 21 out of 30 consecutive nights. Nurse [REDACTED] testified that the Claimant must have demonstrated an adherence rate of at least 70 percent, and the Claimant's actual adherence rate was 28.9 percent for the period of August 7, 2014 through November 4, 2014.
- 3) The Claimant testified that she was unable to use the BiPap device for a portion of the time period in question because she had suffered from two sinus infections, influenza and a stomach virus. She indicated that she would ask her physician to document her illnesses during that time period and resubmit the prior authorization request to WVMI for consideration.

APPLICABLE POLICY

West Virginia Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual Section 506.5 (D-1) states:

For DME services and items requiring prior authorization review for medical necessity by WVMI, it is the responsibility of the prescribing practitioner to submit the appropriate clinical documentation i.e., ICD-9 code(s), all information required on the written prescription (see 506.4, 2nd paragraph, (2) for clarification) and any other relevant information.

The policy goes on to state that InterQual General Durable Medical Equipment Criteria will be utilized by WVMI to determine medical necessity for Noninvasive Airway Assist Devices.

DISCUSSION

Policy states that the West Virginia Medicaid Program covers medically necessary services to eligible beneficiaries. Failure to obtain prior authorization from West Virginia Medical Institute

will result in the denial of services. Testimony provided on behalf of the Department reveals that documentation submitted by the Claimant's physician failed to meet compliance criteria for recertification of a BiPap device.

CONCLUSIONS OF LAW

The Claimant's medical provider failed to provide sufficient documentation to support medical necessity for Medicaid authorization of a BiPap device.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to deny Medicaid authorization for a BiPap device.

ENTERED this 26th Day of February 2015.

**Pamela L. Hinzman
State Hearing Officer**