



STATE OF WEST VIRGINIA  
THE DEPARTMENT OF HEALTH AND HUMAN  
RESOURCES

OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin  
Governor

BOARD OF REVIEW  
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April 10, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1188

Dear Mr. [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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Stacy Broce, WV Bureau for Medical Services

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

██████████,

**Claimant,**

v.

**ACTION NO.: 15-BOR-1188**

**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 April 9, 2015, on an appeal filed January 28, 2015.

The matter before the Hearing Officer arises from the January 16, 2015 decision by the Respondent to deny Medicaid payment for Magnetic Resonance Imaging (MRI) studies of the Claimant's thoracic and lumbar spine.

At the hearing, the Respondent appeared by Representative Stacy Hanshaw of the WV Bureau of Medical Services. Appearing as a witness for the Department was ██████████, RN, of the ██████████. The Claimant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Bureau for Medical Services' Provider Manual, Chapter 528.7
- D-2 InterQual Smart Sheets, 2014 Imaging Criteria for MRI of the Lumbar Spine and 2014 Imaging Criteria for MRI of the Thoracic Spine
- D-3 Physical Therapy Plan of Care, signed by Claimant's physician on May 20, 2014
- D-4 Initial Denial Notifications from APS Healthcare, dated January 16, 2015

**Claimant's Exhibits:**

None

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) The Claimant's physician, [REDACTED], MD, submitted to the [REDACTED] a request for MRI studies of the Claimant's thoracic and lumbar spine on December 19, 2014 (Exhibit D-3). The facility indicated on the request that the Claimant's primary diagnosis was "pain in thoracic spine," with an International Classification of Diseases, Ninth Revision (ICD-9) code of 724.1.
- 2) The Department denied the physician's request for imaging services, and issued a denial letter (Exhibit D-4), dated January 16, 2015. The Department denied the request for four reasons: 1) there was no documentation that the Claimant's symptoms were worsening; 2) there were no x-ray results submitted; 3) there was no documentation that the Claimant completed physical therapy; and 4) there was no documentation of a trial period of NSAIDs or an acetaminophen-based pain reliever.
- 3) The Department's representative submitted into evidence a Physical Therapy Plan of Care (Exhibit D-3) received by the Department as verification of the Claimant's physical therapy. The Department's witness testified that this documentation merely indicates the Claimant was evaluated and certified by his physician to complete a program of physical therapy from May 19 to June 16, 2014. She added that there were no notes to state that the Claimant actually completed six weeks of physical therapy.
- 4) The Department's witness testified that she did not evaluate the imaging services request. She testified that the [REDACTED] nurse who evaluated the imaging services request was not available for the hearing. The witness testified that she reviewed the request in preparation for the hearing, and she found documentation of a trial of an acetaminophen-based pain reliever.
- 5) The Claimant testified that his physician assured him all requested documentation was submitted to the [REDACTED]. He stated that he completed his course of physical therapy. He stated that he cannot "do anything without my back hurting." He stated that he cannot walk one hundred yards without his back starting to hurt. He added that the only reason he wanted the MRI studies was to determine if anything could be done to resolve his back problems.

### **APPLICABLE POLICY**

WV Medicaid Provider Manual, §528.7 – "For radiology services requiring prior authorization for medical necessity by the Utilization Management Contractor (UMC), the referring/treating provider must submit the appropriate CPT code with clinical documentation and any other

pertinent information to be used for clinical justification of services provided by the UMC. The information must be provided to the UMC, and the prior authorization granted, prior to services being rendered . . . When the medical documentation does not meet medical necessity criteria or additional information is not received, a denial letter is sent to the member or his/her legal representative, the requesting provider and facility.”

InterQual 2014 Imaging Criteria for MRI of the Lumbar Spine – For the clinical indication of suspected lumbar disc herniation or foraminal stenosis, an imaging study request must document that the patient has attempted all of the following: a course of non-steroidal anti-inflammatory drugs (NSAIDs) of at least three weeks’ duration, activity modification for at least six weeks, and home exercise or physical therapy for at least six weeks.

InterQual 2014 Imaging Criteria for MRI of the Thoracic Spine – For the clinical indication of suspected thoracic disc herniation or foraminal stenosis, an imaging study request must document that the patient has attempted all of the following: a course of non-steroidal anti-inflammatory drugs (NSAIDs) of at least three weeks’ duration, activity modification for at least six weeks, and home exercise or physical therapy for at least six weeks.

### **DISCUSSION**

The Claimant’s request for MRIs of the thoracic and lumbar spine did not meet the criteria for the study, as listed on the InterQual 2014 Imaging Criteria (Exhibit D-2). There was no documentation concerning previous diagnostic studies, failed trials of conservative treatments or failed trials of NSAIDs or acetaminophen-based pain relievers.

### **CONCLUSION OF LAW**

The Claimant’s physician did not provide sufficient information to meet the InterQual 2014 Imaging Criteria in the December 2014 request for MRIs of the thoracic and lumbar spine on the Claimant’s behalf. Because the medical documentation did not meet the necessity criteria, the Department acted correctly to deny the services, pursuant to WV Medicaid Provider Manual, §528.7

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Department’s decision to deny pre-authorization for MRIs of the Claimant’s thoracic and lumbar spine.

**ENTERED this 10<sup>th</sup> Day of April, 2015.**

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**Stephen M. Baisden**  
**State Hearing Officer**