



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
416 Adams St.  
Fairmont, WV 26554

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

July 7, 2015



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-1993

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,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant'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**

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-1993**

**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 July 6, 2015, on an appeal filed April 27, 2015.

The matter before the Hearing Officer arises from the April 13, 2015 decision by the Respondent to deny prior authorization for Medicaid payment of outpatient surgery (gallbladder).

At the hearing, the Respondent appeared by Virginia Evans, Health and Human Resources Specialist, Bureau for Medical Services, WVDHHR. Appearing as a witness for the Respondent was ██████████ RN, Nurse Reviewer, West Virginia Medical Institute. The Appellant 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 Provider Manual, Chapter 519, Practitioner Manual, §519.20.1 and Attachment 17
- D-2 InterQual Criteria – Biliary Tract/Gallbladder Disorders
- D-3 Information received from Appellant's physician
- D-4 Notice of Initial Denial dated April 13, 2015
- D-5 Reconsideration Request – May 1, 2015 – peer to peer
- D-6 Notice of Reconsideration Decision dated May 6, 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 April 13, 2015, Respondent issued notice (D-4) to the Appellant, her physician, and [REDACTED] advising of the denial of Prior Authorization (PA) for Medicaid payment of outpatient surgery (gallbladder). The notice states, in pertinent part – “The request for the Cholecystectomy, Laparoscopic can not [sic] be approved due to InterQual criteria has not been met. Specifically, there was no documentation provided of gallbladder ejection fraction (EF) less than 35% by CCK-HIDA scan.”
  
- 2) West Virginia Medical Institute (WVMI) Nurse Reviewer [REDACTED] testified that the medical documentation submitted by the Appellant’s physician (D-3) failed to meet clinical indications found in the InterQual criteria (D-2) used to determine PA. Specifically, Nurse [REDACTED] cited InterQual criteria for biliary colic indications due to the Appellant’s symptoms. However, the clinical testing results from an ultrasound and a CT scan revealed no gallstones, sludge or gallbladder wall thickening. Dyskinesia criteria was then reviewed to determine if the requested procedure could be authorized, and a HIDA scan was conducted. The scan must demonstrate that the gallbladder Ejection Fraction (EF) is less than or equal to 35%, and the Appellant’s was determined to be 70%. Because prior authorization cannot be denied by a nurse reviewer, a WVMI physician completed a secondary review and also concluded that prior authorization could not be approved for the laparoscopic cholecystectomy procedure as the clinical findings submitted with the request did not support medical necessity.

A peer to peer request was received (D-5), and while no additional medical documentation was received, the Appellant’s physician spoke directly to a WVMI physician reviewer. In correspondence dated May 6, 2015, the Appellant, her physician and [REDACTED], were notified that a reconsideration of the request for prior authorization for Medicaid payment of a laparoscopic cholecystectomy could not be approved. This notice states, in pertinent part:

WVMI received your physician’s/provider’s request for reconsideration of the initial denial of authorization for the above listed service. After due consideration of all relevant factors including documentation in the medical record and any additional information provided, WVMI reviewed the initial denial with the following result: Initial Denial Upheld, Service Denied.

After reviewing the additional information submitted, the physician reviewer has agreed with the initial denial citing:

At this time the initial denial cannot be overturned.

After reviewing additional information provided via the reconsideration/peer to peer process, the physician reviewer has determined medical necessity has not been established. There was no documentation of gallbladder wall thickening or fluid around [sic] gallbladder, no abnormal labs such as an elevated white

blood count, that there was interference with activities of daily living or lack of adequate response to analgesics and the ejection fraction was above 35%.

- 3) The Appellant proffered testimony to indicate her physician has advised her that her gallbladder works “way too much.” She stated that her whole life has changed due to the discomfort and change in her diet. She reported that she has been to the emergency room ten (10) times and has to take pain pills.

### **APPLICABLE POLICY**

West Virginia Bureau for Medical Services Provider [Medicaid] Manual, Chapter 519 Covered Services, Limitations, and Exclusions for Practitioner Services – Including Physicians, Physician Assistants, and Advanced Registered Nurse Practitioners, §519.20.1 (Prior Authorization for Outpatient Surgeries), provides that prior authorization requirements governing the provision of all WV Medicaid services will apply pursuant to Chapter 300, General Provider Participation Requirements of the Provider Manual. Certain surgeries performed in place of service 22 (Outpatient Hospital) and 24 (Ambulatory Surgical Center) will require prior authorization, effective February 15, 2006. The selected surgeries that require prior authorization through the BMS review contractor are listed in Attachment 17, along with the PA form that may be utilized. Page 12 of Attachment 17 reveals that that a laparoscopic cholecystectomy requires prior authorization.

### **DISCUSSION**

Pursuant to existing policy, West Virginia Medicaid requires that clinical indications demonstrate medical necessity before prior authorization is granted for a laparoscopic cholecystectomy (gallbladder) procedure. A review of the evidence in this case supports the findings of one (1) nurse reviewer, and two (2) physician reviewers, who consistently concluded that the clinical data secured during testing does not demonstrate the procedure is medically necessary. As a result, Respondent’s decision is affirmed.

### **CONCLUSIONS OF LAW**

The evidence demonstrates that medical necessity for prior authorization/Medicaid payment of a laparoscopic cholecystectomy (gallbladder) procedure has not been met.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Department’s decision to deny prior authorization for Medicaid payment of a laparoscopic cholecystectomy procedure.

**ENTERED this \_\_\_\_\_ Day of July 2015.**

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**Thomas E. Arnett  
State Hearing Officer**