



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

July 21, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2185

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Bureau for Medical Services

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

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-2185**

**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 9, 2015, on an appeal filed June 1, 2015.

The matter before the Hearing Officer arises from the May 12, 2015, decision by the Respondent to deny prior authorization for physical therapy services for the Appellant.

At the hearing, the Respondent appeared by Cindy Engle, Bureau for Medical Services. Appearing as a witness for the Respondent was ██████████, West Virginia Medical Institute. The Appellant appeared by her mother, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1 West Virginia Medicaid Provider Manual §§515.3.2 and 515.6.1

D-2 West Virginia Medical Institute Screening Criteria for Physical Therapy

D-3 Medical Documentation from ██████████ M.D. and ██████████

D-4 Notice of Initial Denial dated May 12, 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) A request for continued physical therapy services (D-3) for the Appellant was submitted to the Respondent for approval in April 2015.
- 2) The request (D-3) for physical therapy services was to address the Appellant's recent growth spurt that has caused a tightening of her Achilles' tendon and abnormal gait. The Appellant's primary diagnosis is cerebral palsy.
- 3) The Appellant has already received twenty (20) physical therapy sessions this calendar year.
- 4) The Respondent issued notice to the Appellant on May 12, 2015, advising that the additional physical therapy services could not be approved as medical eligibility criteria had not been met.

## **APPLICABLE POLICY**

West Virginia Medicaid Provider Manual §515.3 states a continuation of physical therapy services may be considered when an exacerbated episode of a chronic condition is clearly documented; otherwise chronic conditions are non-covered.

West Virginia Medicaid Provider Manual §515.6 states that physical therapy services in excess of twenty (20) visits provided for chronic conditions, such as arthritis, cerebral palsy and developmental delay are not covered.

West Virginia Medical Institute Physical Therapy Screening Criteria §2 defines a maintenance program as a repetitive service required to maintain function that does not involve complex and sophisticated physical therapy procedures. Maintenance programs in excess of twenty (20) sessions are not considered for payment as it would be viewed as a chronic condition.

West Virginia Medical Institute Physical Therapy Screening Criteria §3 excludes physical therapy services that are not designed to improve the functional status of an individual with a physical impairment (maintenance therapy).

## **DISCUSSION**

The Respondent contended that the Appellant has a listed chronic condition of cerebral palsy and has received twenty (20) physical therapy sessions this year to treat that condition. Policy does not allow payment for services in excess of twenty (20) sessions for maintenance programs.

The medical documentation submitted noted the Appellant's physical therapy plan would address the Appellant's recent Achilles' restriction and improve her gait deviation caused by a recent growth spurt.

There is no dispute that the Appellant has a diagnosis of cerebral palsy or that she has received twenty (20) visits this year. However, the additional physical therapy services were requested to treat an exacerbated episode of the cerebral palsy and improve her functioning. The additional services requested were not part of a maintenance program and therefore were denied in error.

### **CONCLUSION OF LAW**

Whereas the additional physical therapy services requested for the Appellant were not part of a maintenance program to treat her chronic condition of cerebral palsy, but requested to treat a decrease in her functional abilities due to a growth spurt, the Appellant meets the medical criteria to receive physical therapy services in excess of twenty (20) visits.

### **DECISION**

It is the decision of the State Hearing Officer to **reverse** the Respondent's denial of continued physical therapy services for the Appellant.

**ENTERED this 21<sup>st</sup> day of July 2015**

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**Kristi Logan**  
**State Hearing Officer**