



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch**  
Cabinet Secretary

**Board of Review  
416 Adams Street Suite 307  
Fairmont, WV 26554  
304-368-4420 ext. 79326**

**Jolynn Marra**  
Interim Inspector General

January 2, 2019



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 18-BOR-2635

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson  
State Hearing Officer  
State Board of Review

Enclosure: Appellant's Recourse  
Form IG-BR-29

cc: Roberta Badillo, Appellant's Case Manager  
Angela Signore, Bureau for Medical Services  
Vicki Cunningham, Bureau for Medical Services

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

██████████,

**Appellant,**

v.

**ACTION NO.: 18-BOR-2635**

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on December 13, 2018, on an appeal filed October 26, 2018.

The matter before the Hearing Officer arises from the October 9, 2018 determination by the Respondent to deny Medicaid payment for the prescription drug Mavyret.

At the hearing, the Respondent appeared by Brian Thompson, Medicaid Drug Utilization Review Coordinator. The Appellant appeared *pro se*. Appearing as witness for the Appellant was ██████████, Case Manager for the ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Office of Pharmacy Services Prior Authorization Criteria, effective January 1, 2018
- D-2 Appeal to a Denied Prior Authorization form; Prior Authorization forms; Patient Consent Form; Clinical Notes
- D-3 Notice of Prior Authorization Denial, dated October 9, 2018

**Appellant'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 following Findings of Fact are set forth.

## FINDINGS OF FACT

- 1) The Appellant requested prior authorization for prescription Mavyret treatment for Chronic Hepatitis C. (Exhibit D-2)
- 2) Prior authorization approval for chronic Hepatitis C Virus (HCV) Therapy requires laboratory evidence confirming that the Appellant has a Metavir fibrosis score of F2 or greater. (Exhibit D-1)
- 3) The Appellant's Metavir fibrosis score was F0. (Exhibit D-2)
- 4) On October 9, 2018, the Respondent issued a notice advising the Appellant that her prior authorization request for Mavyret was denied due to the Appellant failing to meet prior authorization criteria of a minimum Metavir fibrosis score of F2. (Exhibit D-3)
- 5) The Appellant did not have a co-infection diagnosis that met a prior authorization criteria exception.

## APPLICABLE POLICY

### **Bureau for Medical Services Policy Manual § 518.2 provides in part:**

Prior authorization for Medicaid-covered drugs is required for reimbursement of certain drugs to assure the appropriateness of drug therapy. The Medicaid Drug Utilization Review Board reviews prior authorization criteria and makes recommendations to the Bureau for Medical Services .... Drugs which require prior authorization and for which prior authorization criteria have not been met are considered non-reimbursable unless the Medicaid Medical Director determines that the drug meets the appropriateness and medical necessity criteria.

## DISCUSSION

The Appellant submitted a request for prior authorization for chronic HCV Mavyret therapy and the Respondent denied the Appellant prior authorization. The Appellant argued that she should be able to receive the Mavyret treatment prior authorization so that her illness does not progress. The Respondent argued that the Appellant's medical necessity did not meet the chronic HCV therapy prior authorization eligibility criteria.

The Respondent had to prove that the Appellant was ineligible for Medicaid prior authorization of HCV Mavyret therapy due to not meeting the criteria of a Metavir fibrosis score of F2. The evidence demonstrated that the Appellant's physician was seeking Medicaid prior authorization for Mavyret to treat the Appellant's chronic HCV diagnosis. The evidence verified that the Appellant has a Metavir fibrosis score of F0. Policy requires medical necessity criteria to be met before Medicaid prior authorization can be granted. The Appellant's Metavir fibrosis score is below the score required for Medicaid prior authorization for chronic HCV Mavyret. Policy does not provide exceptions to waive chronic HCV therapy prior authorization criteria for the purpose of preventing the Appellant's illness from progressing.

During the hearing, the Respondent testified that prior authorization could be granted if the Appellant presented with a co-infection diagnoses such as an HIV diagnosis. The Appellant reported that she had a co-infection Hepatitis B diagnosis; however, the Respondent testified that Hepatitis B was not an

eligible exception diagnosis. Although the Respondent presented no evidence outlining the eligible exception diagnoses, the Appellant did not contest the Respondent's assertion that Hepatitis B was not an eligible exception diagnosis and the Respondent's testimony was found by this Hearing Officer to be credible.

During the hearing, the Appellant provided testimony regarding the necessity for Mavyret due to treatment response issues related to her co-infection Hepatitis B diagnosis. The Respondent asserted that there are treatments available that he could review with the Appellant's physician. The Respondent provided his contact information and the Appellant agreed to have her physician contact the Respondent. The Respondent demonstrated by a preponderance of evidence that the Appellant did not meet the Medicaid prior-authorization criteria for chronic HCV Mavyret therapy.

### **CONCLUSIONS OF LAW**

- 1) Medicaid prior authorization approval for chronic Hepatitis C Virus (HCV) Mavyret therapy requires evidence confirming that the Appellant has a Metavir fibrosis score of F2 or greater.
- 2) The Appellant's Metavir fibrosis score of F0 did not meet the Mavyret therapy prior authorization criteria.
- 3) The Respondent correctly denied the Appellant Medicaid prior authorization for chronic HCV Mavyret therapy.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant Medicaid prior authorization for chronic HCV Mavyret therapy.

ENTERED this 2nd day of January 2019.

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**Tara B. Thompson**  
State Hearing Officer