



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third Street
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 8, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 7, 2005. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid coverage for a Cough Assist device.

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.

Eligibility for Medicaid services is based on current policy and regulations. Some of these regulations state as follows: A Certificate of Medical Necessity must be completed in its entirety for medical equipment that requires prior authorization. The Bureau of Medical Services (BMS) considers the Certificate of Medical Necessity a prescription once it is signed by the practitioner. (Medicaid Regulations, Chapter 500, Section 504).

Evidence presented at your hearing revealed that a Certificate of Medical Necessity for the Cough Assist device was signed by your medical practitioner on April 25, 2005. BMS regulations state that coverage of the cough stimulating device was discontinued as of April 1, 2005.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny Medicaid coverage for the Cough Assist device.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Lynn Pugh, BMS

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

_____,

Claimant,

v.

Action Number: 05-BOR-6553

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 8, 2005 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on December 7, 2005 on a timely appeal filed August 8, 2005.

II. PROGRAM PURPOSE:

The Program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

_____, mother of Claimant

_____, father of Claimant

Patricia Woods, Nurse Administrator, BMS (participating telephonically)

Virginia Evans, Claims Representative, BMS (participating telephonically)

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in its decision to deny Medicaid coverage for the Cough Assist device.

V. APPLICABLE POLICY:

Medicaid Regulations, Chapter 500, Section 504

Medicaid Regulations, Chapter 500, Attachment 1- HCPCS Codes for Durable Medical Equipment and Supplies

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Letter and Certificate of Medical Necessity dated April 28, 2005 and April 25, 2005, respectively
- D-2 Notice of Initial Denial dated July 19, 2005
- D-3 Prescription for Cough Assist dated March 21, 2005
- D-4 Data regarding coughing and Cough Assist device
- D-5 Medicaid Regulations, Chapter 500, Attachment 1

Claimant's Exhibits

- C-1 Copy of Claimant's chest x-ray taken March 8, 2005

VII. FINDINGS OF FACT:

- 1) The Claimant's physician submitted a Certificate of Medical Necessity (CMN) dated April 25, 2005 (D-1) to the West Virginia Medical Institute (WVMI) requesting Medicaid authorization for the purchase of a Cough Assist device.
- 2) WVMI sent the Claimant a Notice of Initial Denial (D-2) on July 19, 2005 which indicated that coverage of the Cough Assist was denied by the Bureau of Medical Services (BMS) because the device is considered a non-covered item under Medicaid Regulations, Chapter 500, Attachment 1 (D-5).

- 3) Ms. _____ testified that the medical provider actually wrote a prescription for the Cough Assist on March 21, 2005 (D-3). She believes that the equipment should be covered by Medicaid because the prescription was written before the device became a non-covered item. She testified that the Cough Assist is a life-saving device and would be cost-effective because it would decrease her son's hospital visits.
- 4) Ms. Woods testified that the begin service date on the Certificate of Medical Necessity is listed as April 15, 2005 and the physician signed the Certificate on April 25, 2005. She stated that the device cannot be covered because the Certificate was submitted after April 1, 2005 and that the Certificate is considered the prescription.
- 5) Medicaid Regulations, Chapter 500, Section 504 provide the following information concerning documentation requirements:

Documentation must include, but is not limited to:

CMN must be completed in its entirety for DME/medical supplies and other related services/items requiring prior authorization. For BMS purposes, the CMN is considered a prescription once signed by the practitioner; therefore a separate written prescription is not required.
- 6) Medicaid Regulations, Chapter 500, Attachment 1 (D-5) state that a cough stimulating device alternating positive and negative airway pressure is a non-covered service that was discontinued on April 1, 2005.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant requested Medicaid coverage for a Cough Assist device for which a prescription was hand-written on March 21, 2005.
- 2) Policy reveals that West Virginia Medicaid requires a Certificate of Medical Necessity to be completed in its entirety for medical items requiring prior authorization.
- 3) The Department provided evidence that revealed a Certificate of Medical Necessity for the Cough Assist device was signed by the medical provider on April 25, 2005.
- 4) Regulations state that the cough stimulating device is a non-covered item that was discontinued under West Virginia Medicaid as of April 1, 2005.
- 5) While the benefits of the Cough Assist device to the Claimant are undisputed, policy requires a Certificate of Medical Necessity to be completed in its entirety for the prior authorization of Medicaid coverage. While the medical provider wrote a prescription for the Cough Assist on March 21, 2005, the Certificate of Medical Necessity required by the Department was not signed by the physician until April 25, 2005.
- 6) The Department acted correctly in denying Medicaid coverage for the Cough Assist device.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny Medicaid payment for the Cough Assist device.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of December, 2005.

Pamela L. Hinzman
State Hearing Officer