



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

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

April 10, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 5, 2006. Your appeal was based on the Department of Health and Human Resources' denial of your request for incontinence supplies under the Medicaid Program.

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.

Current Medicaid regulations state as follows: Specified medical services and/or supplies require prior approval and must be determined medically necessary. A Certificate of Medical Necessity must be completed in its entirety for medical equipment/supplies and other related services/items requiring prior authorization. The Certificate is considered a prescription once signed by the practitioner. The prescribing practitioner must have examined the patient in the last six months. (West Virginia Bureau for Medical Services Provider Manual Section 500)

Information submitted at the hearing revealed that the physician who signed your Certificate of Medical Necessity for incontinence supplies had not examined you within the last six months.

It is the decision of the State Hearing Examiner to **uphold** the Department's action to deny payment of incontinence supplies.

Sincerely,

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

cc: Chairman, Board of Review  
Evelyn Whidby, BMS

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number 05-BOR-7082**

**West Virginia Department of Health & Human Resources,  
Respondent.**

**DECISION OF THE STATE HEARING EXAMINER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 10, 2006 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 originally convened on April 5, 2006 on a timely appeal filed December 1, 2005.

**II. PROGRAM PURPOSE:**

The program entitled Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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 the development of regulations to implement Federal and State requirements for the program. The Department of Health & Human Resources processes claims for reimbursements to providers participating in the program.

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
\_\_\_\_\_, wife of Claimant

The following individuals participated telephonically:  
Patricia Woods, Nurse Administrator, Bureau for Medical Services  
Virginia Evans, Claims Representative, Bureau for Medical Services  
Tina Green, RN, West Virginia Medical Institute

Paula Clark, RN, West Virginia Medical Institute  
Evelyn Whidby, Appeals Coordinator, Bureau for Medical Services (observing)

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

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Agency complied with policy in denying the Claimant's request for incontinence supplies.

#### **V. APPLICABLE POLICY:**

WVBMS Durable Medical Equipment/Medical Supply Manual Chapter 500, Section 504

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

- D-1 Information from Dr. [REDACTED] and [REDACTED] Pharmacy
- D-2 Results of medical review by West Virginia Medical Institute
- D-3 WVBMS Durable Medical Equipment/Medical Supply Manual Chapter 500, Section 504

#### **VII. FINDINGS OF FACT:**

- 1) On June 7, 2005, Dr. [REDACTED] signed a Certificate of Medical Necessity (CMN) for the Claimant to obtain 200 adult disposable diapers per month as a result of urinary incontinence stemming from prostate hypertrophy. The CMN listed the date of last patient contact as August 11, 2004 and the request was received by West Virginia Medical Institute on July 27, 2005.

- 2) The Claimant was notified in a letter (D-2) dated October 3, 2005 of the denial of his request for incontinence supplies. The letter stated, in part:

By contract, WVMI reviews requests for services to determine if they are medically necessary.

Your request was forwarded to BMS for a policy/coverage determination. After due consideration, BMS has denied the following item(s) due to benefit limitation(s): 200 disposable undergarments per month. The date the patient was last examined by the physician was 8/11/04. West Virginia Medicaid policy is that the date the patient was last examined by the physician must be within 6 months from the date the physician signed the CMN.

- 3) The Claimant filed a request for reconsideration (D-2), however, WVMI affirmed the initial denial in a letter to the Claimant on November 28, 2005.
- 4) Mrs. \_\_\_\_\_ testified that her husband needs adult diapers, but that his physician had

advised him not to come back for a visit unless under drastic circumstances. Mr. \_\_\_\_\_ testified that he cannot control his urinary functions.

- 5) West Virginia Bureau for Medical Services Provider Manual Chapter 500, Attachment I dictates that prior authorization must be obtained for incontinence supplies.
- 6) Durable Medical Equipment/Medical Supply Manual Chapter 500, Section 504, Documentation Requirements, states, in part:

In addition to the documentation requirements identified in Common Chapter 300, Provider Participation Requirements 320.5, Document and Retain Records, providers submitting claims for Medicaid reimbursement must maintain complete, accurate and legible records documenting medical necessity for equipment and/or supplies provided to meet the basic health care needs of the individual Medicaid member.

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. The prescribing practitioner must have examined the patient within the last six months.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) The Bureau for Medical Services must provide prior authorization before payment of incontinence supplies can be approved.
- 2) In conjunction with this provision, the Claimant's physician completed a Certificate of Medical Necessity, which was signed on June 7, 2005 and received by WVMI on July 27, 2005. While the CMN is considered a prescription once signed by a practitioner, policy dictates that the prescribing practitioner must have examined the patient within the last six months in order for payment to be authorized.
- 3) The CMN provided by prescribing physician Dr. [REDACTED] lists the date of the Claimant's last examination as August 11, 2004, which was clearly more than six months prior to the request for incontinence supplies.
- 4) The Department's denial of payment for incontinence supplies is valid.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the Claimant's request for payment of incontinence supplies through the Medicaid Program.

**X. RIGHT OF APPEAL:**

See Attachment.

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 10<sup>th</sup> Day of April 2006.**

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**Pamela L. Hinzman**  
**State Hearing Examiner**

**CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION**  
**For**  
**Public Assistance Hearings,**  
**Administrative Disqualification Hearings, and**  
**Child Support Enforcement Hearings**

**A. CIRCUIT COURT**

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

**B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

**C. THE UNITED STATE DEPARTMENT OF AGRICULTURE**

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.