



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**P. O. Box 1736**  
**Romney, WV 26757**

**Joe Manchin III**  
**Governor**

**Martha Yeager Walker**  
**Secretary**

April 18, 2007

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

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 5, 2007. Your appeal was based on the Department of Health and Human Resources' decision to deny pre-authorization coverage approval for a Right Shoulder Arthroscopy with Subacromial Decompression.

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 provide as follows: The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Specified services require prior approval and must be determined medically necessary and appropriate in order for the services to be covered. (West Virginia Bureau for Medical Services Provider Manual § 500)

The information submitted at the hearing reveals that the facility requesting prior approval failed to justify medical necessity and appropriateness.

It is the decision of the State Hearing Examiner to **uphold** the Department's action to deny coverage for the procedure.

Sincerely,

Sharon K. Yoho  
State Hearing Examiner  
Member, State Board of Review

cc: Chairman, Board of Review  
Evelyn Whidby, BMS  
[REDACTED] WV Legal Aid

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number 07-BOR-1070**

**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 5, 2007 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, 2007 on a timely appeal filed December 11, 2006.

### **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, (BMS), 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's Witnesses:

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

Department's Witnesses:

Pat Woods, Claims Representative, BMS

Oretta Keeney, WV Medical Institute, (WVMI)

Kathy Honeycutt, Claims Representative, (WVMI)

Observing:

Evelyn Whidby

\_\_\_\_\_

Claimant's representative, [REDACTED] WV Legal Aid

Presiding at the hearing was Sharon K. Yoho, 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 Department is correct in denying a request for Medicaid coverage for a right shoulder Arthroscopy with Subacromial Decompression.

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

West Virginia BMS Provider Manual Chapter 320.3, 500, 502, 508.1 and 508.1.4  
McKesson InterQual 2006 – Imaging Criteria

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

- D-1 West Virginia Bureau of Medical Services Manual Chapter 508, 508.1
- D-2 WVMH Medicaid Outpatient Services Authorization Request Form dated November 29, 2006
- D-2a Medical notes of doctor's visit on November 28, 2006.
- D-3 McKesson InterQual 2005 – Procedures Criteria
- D-4 Client Notification of denial dated November 30, 2006
- D-5 Physician Notification of denial dated November 30, 2006

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

- 1) On November 28, 2006, the claimant's physician from [REDACTED] Center submitted a request for prior approval for an Arthroscopy with Subacromial Decompression surgical procedure for the claimant's right shoulder.
- 2) The request stated that the clinical reasons for study were tenderness, pain, weakness, trouble reaching above head or behind back and impingement. Relative diagnostic study included on the request was Spur in the aspect of AC joint of right shoulder. Under related medications, treatments, and therapies the request noted that no medications or treatments had been used to treat the symptoms.
- 3) Along with the request for prior approval, the referring physician included notes from a November 28, 2006 office visit. These notes state: "Today the patient had a long discussion regarding treatment options. At this time, I am recommending either an injection versus diagnostic and operative arthroscopy. At this point, she does not want to consider an

injection. She instead wants surgery to take care of this problem.”

- 4) The WVMi staff reviewed the request and made a determination that the documentation given on the request did not meet the clinical indication criteria outlined on the InterQual to justify Arthroscopy Surgery. The InterQual indicates that NSAID Rx for 3 weeks and Occupational / Physical Therapy for 6 weeks should precede surgical options. The request did not include any information to indicate there had been any conservative treatment trial.
- 5) The evaluating nurse from WVMi contacted the Physician’s office and talked to the contact person to ensure that no conservative treatments had been tried. The information she received during this phone contact confirmed that there had been no prescribed drugs, injections or therapy tried.
- 6) WVMi issued a denial notice on November 30, 2006 to both the claimant and the requesting Physician. The notice issued to the Physician explained that the request was denied due to the lack of documentation regarding conservative measures of treatment. The notice also provided the process for which to request a reconsideration. The Department did not receive a request for a reconsideration.
- 7) The McKesson InterQual 2005 – Arthroscopy, Surgical, Shoulder as:
  - 610 Shoulder pain > 2 mos
  - 620 Finding by PE (ALL)
    - 621 Pain/weakness on resisted shoulder abduction/rotation
    - 622 Passive ROM normal
    - 623 Tenderness over rotator cuff
  - 630 Shoulder x-ray nondiagnostic for etiology of pain
  - 640 No/minimal rotator cuff tear by imaging
  - 650 Continued SX/finding after **Rx** (ALL)
    - 651 NSAID (ONE) Rx > 3 wks 2 Contraindicated/not tolerated
  - 652 OT?PT > 6 wks
  - 653 Subacromial corticosteroid injection (ONE)
    - Ineffective Contraindicated/not tolerated/refused
  - 654 Activity modification > 6 wks
- 8) West Virginia Bureau for Medical Services Provider Manual § 508.1:  
Prior Authorization Requirements For Outpatient Services  
Medicaid covered outpatient services, which require medical necessity review and prior authorization are:
  - 4. 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 authorization through the BMS review contractor are listed in Attachment 4, along with the PA form that may be utilized.
- 9) West Virginia Bureau for Medical Services Provider Manual § 500: INTRO:  
The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Covered and authorized services must be rendered by enrolled providers

within the scope of their license and in accordance with all State and Federal requirements. Any service, procedure, item, or situation not discussed in the manual must be presumed non-covered unless informed otherwise in writing by the Bureau for Medical Services (BMS).

- 10) West Virginia Bureau for Medical Services Provider Manual § 320.3:  
Obtain Prior Authorization:  
It is the responsibility of the provider of the service to secure prior approval before rendering the service.  
The provider must submit written documentation demonstrating the medical necessity and appropriateness of the proposed treatment.
- 11) West Virginia Bureau for Medical Services Provider Manual § 502:  
Medical Necessity, All services must be medically necessary and appropriate to the member's needs in order to be eligible for payment. The medical records of all members receiving Practitioner Services must contain documentation that establishes the medical necessity of the service.  
Important: The fact that a provider prescribes, recommends, or approves medical care does not in itself make the care medically necessary or a covered service. Nor does it mean that the patient is eligible for Medicaid benefits. It is the provider's responsibility to verify Medicaid eligibility and obtain appropriate authorizations before services are rendered.

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

- 1) Policy provides that prior authorization is required for the proposed Arthroscopy procedure and that necessity and appropriateness must be documented. The providers request for prior authorization did not include adequate information to prove that conservative measures of treatment had been tried. The Department did not receive any additional information from the provider following the denial nor did they receive a request for reconsideration.
- 2) The Department followed proper policies and procedures in their processing of the request and their ultimate denial was due to the provider's failure to document and demonstrate the medical necessity and appropriateness of the proposed service.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the request for prior authorization through the Medicaid Program for the requested procedure.

#### **X. RIGHT OF APPEAL:**

See Attachment.

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 18th Day of April 2007.**

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**Sharon K. Yoho**  
**State Hearing Examiner**