



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 2, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 21, 2007. Your hearing request was based on the Department of Health and Human Resources' denial of a K0010 Power Wheelchair.

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 that replacement of Durable Medical Equipment may be covered by WV Medicaid on an as-needed basis due to acute rapid changes in the member's physical condition, wear, theft, irreparable damage, or loss by disasters. For consideration of equipment replacement, the provider must obtain prior authorization. Documentation to medically justify replacement must accompany all requests. (WV Provider Manual Chapter 503.1.c)

Evidence presented during your hearing revealed that the Department failed to evaluate your prior authorization request based on your medical condition. The Department denied your request for non-medical reasons, and failed to consider changes in your medical condition as outlined in your prior authorization request.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to deny your request for a K0010 Power Wheelchair due to timeframe constraints, and require that your request be evaluated based on your current medical condition.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Evelyn Whidby, BMS
Virginia Evans, BMS

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

_____,

Claimant,

v.

Action Number: 07-BOR-579

**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 March 21, 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 convened on March 21, 2007 on a timely appeal filed November 14, 2006.

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:

_____, Claimant – participated by telephone
_____, Claimant's wife – participated by telephone
Virginia Evans, Claims Representative, BMS - participated by telephone
Joann Ranson, RN, BMS- participated by telephone
Evelyn Whidby, BMS – observing – participated by telephone

Presiding at the hearing was Cheryl McKinney, 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 the claimant's request for a K0010 Power Wheelchair due to timeframe restraints.

V. APPLICABLE POLICY:

WVDHHR Hospital Manual Chapter 500, Section 503.1.c, Section 505, Attachment I

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVDHHR Hospital Manual Chapter 500, Section 501, 503, Attachment I
- D-2 WVMi Medicaid DME/Medical Supplies Authorization Request Form dated September 1, 2006 and supporting documents
- D-3 Denial notice dated October 23, 2006

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant's physician, Dr. [REDACTED] submitted a Medicaid DME/Medical Supplies Authorization Request Form (D-2) on September 1, 2006 to WVMi requesting pre-authorization for a K0010 Power Wheelchair for the claimant. The physician listed under "Clinical Diagnosis" abnormality of gait, and osteoarthritis since November 8, 1990. The physician added the following clinical indications:

The patient cannot ambulate more than 10 ft., is unsteady and has fallen many times in ambulation attempts. His wife has been unable to push him short distances in a manual

wheelchair but cannot adequately do so presently due to her own physical limitation (arthritis, high blood pressure). Mr. _____' condition is permanent and his need for power mobility is lifetime. He can't self propel a manual type wheelchair at all due to arthritis of the up. ext.'s [upper-extremities]. A scooter will not fit in his home.

The physician also attached a prescription form for a "power wheelchair", as well as a letter from Med-Response' Director of Rehabilitation summarizing claimant's abilities and deteriorating medical status. The letter from Med-Response provided a telephone number to be used to contact them if further information was needed.

- 2) WVMH sent a Notice of Denial (D-3) to the Claimant on October 23, 2006 which states, in part:

A request for prior authorization was submitted for durable medical services. Based on the medical information provided, the request has been denied.

Reason for denial: Your request for a K0010 power wheelchair and accessories was denied by WV Medicaid's Medical Director. This request was denied due to the WV Medicaid allowable is 1 mobility aid in 5 years, and the patient has a manual wheelchair provided by Med-Response in August 2005.

Policy Applied: DME Manual, Chapter 500, Section 501 and Attachment 1

- 3) The Claimant testified his medical condition has deteriorated to the point where he is physically unable to operate the manual wheelchair he received in 2005, and has no other individual available to help him operate it. The Department's Claims Representative testified during the hearing that the Claimant's request for prior authorization for the power wheelchair was not denied based on medical necessity. She stated it was denied based on Medicaid policy. When asked if she knew of any exceptions in the timeframe limiting policy that would allow for this type of deteriorating medical status, she answered "there hasn't been in the past".
- 4) WVDHHR Bureau of Medical Services Policy Chapter 500 Attachment I provides that the K0010 Standard-Weight Frame Motorized/Power Wheelchair has a service limit of "1 unit per 5 years", and under "special instructions" effective 3/15/06, Medical necessity review will be based on Interqual DME general criteria. Also listed in this policy is the following comment at the top of the page "Prior Authorization must be obtained if service limits are exceeded".

- 5) WVDHHR Bureau of Medical Services Policy Section 503.1.c states the following:

Replacement

Replacement of DME equipment may be covered by WV Medicaid on an as-needed basis due to acute rapid changes in the member's physical condition, wear, theft, irreparable damage, or loss by disasters. For consideration of equipment replacement, the provider must obtain prior authorization. The request must be submitted to WVMi prior to rendering services. Documentation to medically justify replacement must accompany all requests. A policy or insurance report is required with all requests for replacement of stolen equipment. A report of insurance liability is required with requests for replacement of equipment lost or destroyed. In cases of neglect and/or wrongful misuse of DME, requests for replacement will be denied if such circumstances are confirmed.

- 6) WVDHHR Bureau of Medical Services Policy Section 505 states in part:

For DME services and items requiring prior authorization review for medical necessity by WVMi, it is the responsibility of the prescribing practitioner to submit the appropriate clinical documentation i.e., ICD-9 codes(s), all information required on the written prescription and any other relevant information. Additionally, a licensed physical therapist or licensed occupational therapist who is fiscally, administratively and contractually independent from the DME provider may also submit clinical documentation for review when requested by the prescribing practitioner.

VIII. CONCLUSIONS OF LAW:

- 1) Evidence clearly establishes the Claimant's practitioner followed policy requirements in requesting prior authorization for a power wheelchair for the Claimant.
- 2) The Department failed to properly evaluate the Claimant's medical condition in its decision to deny the request for authorization of the power wheelchair. The Department's testimony indicated the sole reason for the denial was due to the timeframe limit of one wheelchair every five years. They failed to consider the Claimant's deteriorating medical condition and inability to utilize the manual wheelchair.
- 3) Evidence clearly shows that the Department's policy when timeframe service limits are exceeded is to require prior authorization to be obtained, and in this instance to evaluate the request taking into consideration the Claimant's medical condition.

IX. DECISION:

It is the ruling of the State Hearing Officer to **reverse** the Department's decision to deny the Claimant's request for prior authorization for a power wheelchair due to timeframe limits, and require the Department to re-evaluate the request based on the Claimant's medical condition.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of May 2007.

**Cheryl McKinney
State Hearing Officer**