



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

March 12, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 21, 2007. Your appeal was based on the Department of Health and Human Resources' decision to deny Medicaid coverage for a CPAP machine.

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 answer necessary questions to justify medical necessity and appropriateness.

It is the decision of the State Hearing Examiner to **uphold** the Department's action to deny payment for the requested CPAP machine.

Sincerely,

Sharon K. Yoho
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 07-BOR-618

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 February 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 February 21, 2007 on a timely appeal filed October 27, 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
Pat Woods, Claims Representative, BMS
Virginia Evans, BMS
Paula Clark, WV Medical Institute, (WVMI)

Evelyn Whidby, BMS observing
Tina Green, WVMI, observing

Presiding at the hearing was Sharon K. Yoho, State Hearing Examiner and a member of the State Board of Review.

ALL Participants presented by speakerphone

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 CPAP machine.

V. APPLICABLE POLICY:

West Virginia BMS Provider Manual Chapter 500 intro.
West Virginia BMS Provider Manual Chapter 503 and 504
West Virginia BMS Provider Manual Chapter 505

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 WVMi Medicaid DME/Medical Supplies Authorization Request dated September 22, 2006
- D-2 WV University Hospitals, Certificate of Medical Necessity/Prescription for CPAP or BiLevel dated September 21, 2006
- D-3 Documentation from WVU Sleep Laboratory dated September 28, 2006
- D-4 WVMi Summary DME Report
- D-5 WVMi request for additional information from Mon Health Care dated October 5, 2006
- D-6 Notice of denial dated October 19, 2006
- D-7 WV BMS Provider Manual Policy §500 - 505

VII. FINDINGS OF FACT:

- 1) On September 28, 2006, WVMi received a Durable Medical Equipment (DME) Supply Authorization request for purchase of a CPAP machine, Mask and Heated Humidifier for the claimant (D-1). This request was submitted by [REDACTED]. This request included a Certificate of Medical Necessity/Prescription for CPAP or BiLevel (D-2). It also included documentation of Sleep Study results (D-3).
- 2) The Department had records of CPAP/BPAP supplies being billed for this claimant in the past, which alerted them to the fact that this claimant may already have a machine. This prompted the Department to request additional information regarding the needs of this claimant since the Department can only provide one CPAP machine per lifetime.
- 3) WVMi issued a potential denial on October 5, 2006 to [REDACTED] requesting answers to the following questions by October 12, 2006:
 - a. Who provided the patient with a CPAP machine?
 - b. Who paid for the CPAP machine the patient was using?
 - c. When was the CPAP machine provided to the patient?
 - d. What is the current status/condition of the CPAP?
 - e. Is the CPAP under any type of warranty?
 - f. Is the CPAP been evaluated to see if it is repairable?

- 4) The provider did not respond with answers to the above questions therefore; on October 19, 2006 WVMi issued a denial notice to the claimant. The denial stated in part, "Your request for CPAP cannot be authorized due to the lack of information required for review. No additional information was provided after a request date of October 12, 2006. The requested information regarding who paid for the CPAP the patient was previously using, when was it provided, who provided it to the patient and the current condition and status of the CPAP was not received."
- 5) The claimant began an effort to obtain the above information himself, and submitted a request for a hearing to address the denial. His hearing request form advised that his current BPAP came from [REDACTED]s, and was paid for by Medicaid in 1995.
- 6) At the hearing, the claimant provided additional information. He had determined that there was no warranty remaining for his machine and that [REDACTED]s Medical Equipment no longer handles that particular machine therefore; it would need to be sent back to the factory to be assessed for possible repair. He has taken his machine to [REDACTED] who has determined that the mechanism that adjusts the pressure is malfunctioning. [REDACTED] has contacted the factory who has advised that they do not think it can be repaired but that it should be sent to them for evaluation. The claimant testified that he would need proof of coverage for this evaluation and possible repair before sending it to the factory.
- 7) Staff from BMS and WVMi advised that the claimant should work with [REDACTED] and his Physician in submitting a request for needed repair of Durable Medical Equipment as all information must come through a provider of services.
- 8) 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).
- 9) West Virginia Bureau for Medical Services Provider Manual § 503

Warranty, Repair, and Replacement
Durable Medical Equipment and/or accessory repairs and replacements are limited to medically necessary items purchased by BMS or Children with Special Healthcare Needs Program. All DME repairs and replacement require PA through WVMi. Only one (1) MAE of the same category will be maintained or repaired by BMS at any time.
Replacement of DME equipment may be covered by WV Medicaid on an as-needed basis due to irreparable damage. For consideration of equipment replacement, the provider must obtain prior authorization. The request must be submitted to WVMi prior to rendering services.

- 10) West Virginia Bureau for Medical Services Provider Manual § 504:
Documentation Requirements
Provider Participation Requirements – Providers submitting claims for Medicaid reimbursement must maintain complete, individual, accurate and legible records. Records must include documentation of medical necessity for equipment and/or supplies provided to meet the basic health care needs of the member.
- 11) West Virginia Bureau for Medical Services Provider Manual § 505:
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. It is strongly recommended that DME providers, in partnership with prescribing practitioners, assist in obtaining prior authorizations. Prescribing practitioners must provide clinical information and a written prescription while DME providers may submit the appropriate HCPCS code and billing information.
When documentation fails to meet criteria, WVMI may request additional information to be submitted within seven (7) days. If information is not received by WVMI within seven (7) days, the request will be denied for lack of documentation to support medical necessity.

VIII. CONCLUSIONS OF LAW:

- 1) Policy §503 provides that repair and replacement of Durable Medical Equipment is a service that can be covered by Medicaid once the Department is provided with the needed information necessary to make an eligibility determination. The claimant's provider, [REDACTED] submitted a request for a new CPAP machine without identifying the request as a request for replacement.
- 2) Policy §505 provides that when requested additional information needed for prior approval is not received by WVMI, the request is denied for lack of documentation to support medical necessity. When the Department requested information regarding the claimant's previous CPAP machine, the provider failed to submit this information to WVMI and therefore; the Department followed policy in issuing a denial notice.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the request for payment authorization through the Medicaid Program for a replacement CPAP machine.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 12th Day of March 2007.

Sharon K. Yoho
State Hearing Examiner