



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street West  
Charleston, WV 25313

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

May 2, 2007

Ms. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 2, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny you a Transcutaneous Electrical Nerve Stimulation (TENS) Unit and Supplies.

In arriving at a decision, the State Hearings 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 the Medicaid Program is based on current policy and regulations. Some of these regulations state as follows:

For Durable Medical Equipment 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.

The information submitted at your hearing revealed: The submitted documentation does not support a medical necessity.

It is the decision of the State Hearings Officer to **UPHOLD** the **ACTION** of the Department to **DENY** the TENS Unit and Supplies.

Sincerely,

Ray B. Woods, Jr., M.L.S.  
State Hearing Officer  
Member, State Board of Review

cc: State Board of Review  
Virginia Evans, B. M. S.  
Oretta Keeney, RN - WVMI

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-948**

**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 May 2, 2007 for Ms. \_\_\_\_\_. 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 May 2, 2007 on a timely appeal filed December 20, 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\*

Virginia Evans, Claims Representative – Bureau for Medical Services (BMS)

Paula Clark, RN – West Virginia Medical Institute (WVMI)

Jo Ann Ranson, RN – BMS (Observing)

Jennifer Linville, RN – WVMJ (Observing)

\* Participated by telephone conference

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

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

The question(s) to be decided is: Does Ms. \_\_\_\_\_ meet the medical eligibility criteria for the TENS Unit and Supplies?

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

Chapter 500 - Covered Services, Limitations, and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 Prior Authorization

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

##### **Department's Exhibits:**

- D-1 DME Manual, Section 505 – Prior Authorization
- D-2 InterQual Durable Medical Equipment Criteria – TENS
- D-3 Information from [REDACTED] M. D. and [REDACTED]
- D-4 WVMJ Medical Review
- D-5 Claimants written hearing request

##### **Claimants' Exhibits:**

None

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

- 1) The Claimant is a forty-one year old Caucasian female with multiple medical problems including morbid obesity; chronic lumbar strain; hypertension; thyroid problems; depression; and degenerative disc disease.
- 2) The Claimant sought medical attention from her physician with a chronic history of low back pain on August 17, 2006.
- 3) The physician determined from a CAT scan that the Claimant had a disc bulge at L5-S1, but no disc herniation. The Treatment Plan stated:

I do not believe she is a suitable candidate for injectable modalities. She continues to use Duragesic 75 meg per day and I recommended the continued use of that medication. I prescribed a TENS unit, which I believe might offer some relief. She was discharged in good condition.

- 4) A WVMI Medicaid DME/Medical Supplies Authorization Request Form was submitted to WVMI on August 17, 2006, with a prescription for a TENS Unit and Supplies.
- 5) The referral to WVMI was based on that certain section of Chapter 500 - Covered Services, Limitations, and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 Prior Authorization which 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 code(s), all information required on the written prescription (see Section 504, 2nd paragraph, (2) for clarification) and any other relevant information.

- 6) Chapter 500 - Covered Services, Limitations, and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 Prior Authorization provides instructions regarding the submitted documentation which states in part:

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.

- 7) The WVMI reviewed the request for the TENS Unit and submitted a Notice of Denial on November 27, 2006. The reason for the denial stated in part:

Documentation provided does not indicate medical necessity – specifically. Your request for a TENS unit cannot be approved. According to WV Medicaid/InterQual criteria, pain relieving modalities must be tried prior to the TENS unit.

- 8) The Claimant's hearing request was received by B. M. S. on December 20, 2006.
- 9) At the hearing, the Claims Representative reviewed the policy. There were no questions from the participants.
- 10) The WVMI RN testified that the Claimant's denial was based on the InterQual SmartSheets that are used as screening guidelines. According to the guidelines, there were no reports that the Claimant had failed both medication management and pain relieving modalities.
- 11) The guidelines regarding the InterQual SmartSheets are addressed in that part of Chapter 500 - Covered Services, Limitations, and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 Prior Authorization which states:

Effective March 15, 2006, InterQual General Durable Medical Equipment Criteria, will be utilized by WVMI for determining medical necessity for DME items. These items include: Transcutaneous Electrical Nerve Stimulation (TENS) (E0720, E0730).

- 12) The Claimant testified that she had received pain management while in the hospital and also upon discharge from the hospital.

- 13) The WVMI RN testified that the Claimant had submitted a previous request for a TENS Unit that was also denied. All were advised by the State Hearing Officer that any previous denials would not be addressed at this hearing.
- 14) The WVMI RN testified that the Claimant was not requested to provide additional documentation, as stated in Findings of Fact #6 because it was at their discretion.

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

- 1) The Policy found at Chapter 500 - Covered Services, Limitations, and Exclusions, Volume 6 – DME/Medical Supplies, Section 505 Prior Authorization, requires any request for Durable Medical Equipment to have prior authorization from WVMI;
- 2) WVMI utilized the InterQual General Durable Medical Equipment Criteria to determine that the Claimant did not meet the guidelines to receive a TENS Unit;
- 3) The Claimant was not asked to submit additional information to WVMI before denying the request for durable medical equipment. The policy only states that WVMI *may* request additional information to be submitted within seven (7) days; and finally
- 4) The Claimant does not meet the established criteria for a TENS Unit.

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

It is the decision of this State Hearing Officer to **UPHOLD** the **ACTION** of the Department to **Deny** the TENS Unit.

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

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2nd Day of May, 2007.**

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**Ray B. Woods, Jr., M.L.S.**  
**State Hearing Officer**