



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 6165  
Wheeling, WV 26003

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

July 10, 2008

\_\_\_\_\_ for \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 30, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny Medicaid payment for portable oxygen for your son.

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 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 i.e., ICD-0 code(s), all information required on the written prescription and any other relevant information. Effective March 15, 2006, InterQual General Durable Medical Equipment Criteria, will be utilized by WVMI for determining medical necessity for DME items. Any new oxygen system requested for medical necessity must follow InterQual criteria to include documentation of initial lab results. (WVDHHR Medicaid Policy Manual, Chapter 500 and InterQual SmartSheets 2007-Imaging Criteria)

The information presented at your hearing reveals that prior authorization for payment of portable oxygen was not approved because a specific qualifying oxygen saturation/blood gas PO2 result was not provided along with relevant medical diagnosis to meet the InterQual criteria.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the request for prior authorization for portable oxygen.

Sincerely,

Melissa Hastings  
State Hearing Officer  
Member, State Board of Review

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

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

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

**Action Number: 08-BOR-1235  
08-BOR-1236**

**v.**

**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 June 30, 2008 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 June 30, 2008 on a timely appeal filed April 16, 2008. Note that this hearing was scheduled previously on May 20, 2008 and June 16, 2008 and was rescheduled at the request of the Claimant's representative.

**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's mother  
Jennifer Poff, RN, WVMI  
JoAnn Ranson, RN, BMS  
Virginia Evans, DHHR Specialist, BMS

Presiding at the hearing was Melissa Hastings, State Hearing Officer and a member of the State Board of Review.

*All parties participated telephonically.*

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

The question(s) to be decided is whether the Department was correct in its decision to deny prior authorization (PA) for Medicaid payment for portable oxygen.

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

WVDHHR Medicaid Policy Manual, Chapter 500, section 505

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

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

- D-1 BMS Provider Manual Chapter 500, section 505
- D-2 Renewal Prescription from Apria HealthCare, Inc signed December 17, 2007
- D-3 InterQual SmartSheets 2007 Durable Medical Equipment Criteria for Home Oxygen Therapy
- D-4 Notice of Denial for Durable Medical Services dated January 11, 2008 to Claimant, Physician and DME Provider
- D-5 Recipient Notice of Preadmission Reconsidered Determination WV Medicaid dated February 1, 2008

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

- 1) On December 17, 2007 West Virginia Medical Institute received a renewal prescription (D2) on [REDACTED] Healthcare Inc letterhead signed by [REDACTED] MD requesting portable oxygen for the Claimant. A notation on the form states:

Uncontrolled oxygen desaturation during seizure activity.

- 2) Evidence presented by the Department reveals that prior authorization is required for Medicaid payment for Durable Medical Equipment (DME). West Virginia Medical Institute (WVMI) is the agency contracted to review prior authorization requests and determine eligibility. The prior authorization request was reviewed by RN Poff utilizing the InterQual SmartSheets for Durable

Medical Equipment for Home Oxygen Therapy (D3) utilizing the criteria found under indications 100. Testimony from RN Poff indicates that since there were no test results of oxygen saturation levels submitted with the request or dates of seizures she contacted the physician for further information. No further information was provided by the physician and the RN forwarded the request to a physician reviewer for evaluation. The reviewing physician determined that the request should be denied.

- 3) A Notice of Denial was issued to the claimant, physician and Durable Medical Equipment Provider (D4) on January 11, 2008 indicating

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: Documentation provided does not indicate medical necessity – specifically:

This request for portable oxygen cannot be approved because a specific qualifying oxygen saturation/blood gas PO2 result was not provided. The following criteria must be provided per InterQual Criteria 2007, subset 100, Bullet 110: Clinical presentation at PO2 56-59 mmHg/Oxygen saturation 89% and a diagnosis of Congestive Heart Failure and pitting edema or Hematocrit less than 56% or Pulmonary Hypertension/right ventricular hypertrophy/ cor pulmonale.

Testimony received from RN Poff indicates there was a reconsideration request received on January 29, 2008 from the Claimant's physician. The same information was submitted by the physician. A Recipient Notice of Preadmission Reconsidered Determination was issued to the Claimant dated February 1, 2008 (D5) stating the following:

By contract, WVMI reviews Medicaid services to determine if they are medically necessary and are delivered in the most appropriate setting.

During this review, WVMI initially denied authorization for the above-noted services. A request was made to WVMI to reconsider this initial determination. After due consideration of all relevant factors including documentation in the medical record and any additional information provided, WVMI upheld the initial denial.

- 4) Testimony received from claimant's mother indicates her son suffers frequent seizures and during these episodes he turns completely blue due to lack of oxygen. As a result of these seizures her son has been transported to the emergency rooms where his oxygen levels are extremely low. The oxygen provider has provided them with portable oxygen and she administers the oxygen immediately after the seizure and this has helped tremendously.
- 5) WVDHHR Medicaid Policy Manual, Chapter 505 (D1), provides prior Authorization Requirements For Durable Medical Equipment and states:

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, 2<sup>nd</sup> paragraph, (2) for clarification) and any other relevant information.

Effective March 16, 2006, InterQual General Durable Medical Equipment Criteria, will be utilized by WVMI for determining medical necessity for DME items. These items include the following:

- Home Oxygen Therapy (D0424, E0431, E0434, E0439)  
Effective March 16, 2006 any new oxygen system requested for medical necessity must follow InterQual criteria to include documentation of initial lab results. Date of lab results must be within 6 months of the oxygen request.

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

- 1) WVDHHR Medicaid Policy Manual states that prior authorization (PA) is required for Durable Medical Equipment, in this case portable oxygen. West Virginia Medical Institute is the authority charged with determining the eligibility for pre authorized services through Medicaid. WVDHHR Medicaid Policy requires that requests for pre authorized Durable Medical Equipment be reviewed by West Virginia Medical Institute utilizing InterQual Smart Sheets in determining eligibility for the service. For Home Oxygen Therapy policy requires documentation of initial lab reports.
- 2) The evidence reveals that the Department (through WVMI) received a request for prior authorization (PA) of Medicaid payment for portable oxygen for the claimant. The registered nurse employed by West Virginia Medical Institute reviewed the request utilizing the InterQual Smart Sheet for Oxygen Therapy. Since the request did not include any lab test results concerning oxygen saturation, the nurse was unable to determine eligibility via the InterQual Smart Sheets. The request was forwarded to a physician reviewer who in turn determined that the request did not meet the necessary criteria for approval.
- 3) A reconsideration request was received from the Claimant's physician but did not include any lab test results. The request was reviewed again by the physician reviewer who upheld the denial determination.

### **IX. DECISION:**

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny prior authorization of Medicaid payment for portable oxygen.

### **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 July 2008.**

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**Melissa Hastings  
State Hearing Officer**