



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

October 10, 2007

By: _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 5, 2007. Your appeal was based on the Department of Health and Human Resources' decision to deny prior authorization for Medicaid coverage for Inpatient Rehabilitation Services.

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: WV Bureau for Medical Services Provider manual §505.1 – Admissions to rehabilitation units of acute care facilities are subject to pre-admission review. §505.2 – Excluded are Inpatient admission for services, which could be performed in an outpatient setting.

The information submitted at the hearing reveals that your son does not meet the Medicaid Admissions criteria for Medical Necessity for Inpatient Rehabilitation services.

It is the decision of the State Hearing Examiner to **uphold** the Department's actions to deny coverage for the Inpatient Rehabilitation.

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-1922

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 September 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 convened on September 5, 2007 on a timely appeal filed July 26, 2007.

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

_____, Claimant's mother

_____, Claimant's grandmother

_____, Claimant's grandfather

_____ Physical Therapist, _____

Department's Witnesses:

Nora McQuain, Bureau of Medical Services (BMS), participating by speakerphone

Debbie Pauley, RN, WV Medical Institute, (WVMI), participating by speakerphone

Observing:
Joann Ranson, BMS

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 pre-admission approval for Medicaid coverage for Inpatient Rehabilitation Services.

V. APPLICABLE POLICY:

West Virginia BMS Provider Manual Chapter 504.3, 505.1, 505.2
Inpatient Rehabilitation Screening Criteria for children under 21 Medical Necessity

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 West Virginia BMS Provider Manual Chapter §504 & §505
- D-2 Inpatient Acute Rehabilitation < 21 Initial Stay Form dated May 10, 2007
- D-3 Notice of Denial dated May 15, 2007 addressed to Claimant
- D-4 Notice of Denial dated May 15, 2007 addressed to Physician
- D-5 Notice of Denial dated May 15, 2007 addressed to Rehab Center
- D-6 Letter from Physician dated May 17, 2007
- D-7 Notice of reconsidered determination dated June 6, 2007
- D-8 Inpatient Hospital Stay for Rehabilitation Care Criteria

VII. FINDINGS OF FACT:

- 1) The Claimant is a 14-year-old male with Diagnosis of Cerebral Palsy. He is a quadriplegic and is confined to a wheelchair. He has been receiving outpatient therapy in the past. His family and his Physician would like to try Inpatient therapy for a few weeks to see if more independence could be gained in self-care. His family believes that growth spurts and changes in muscle spasticity warrant In-Patient Therapy.
- 2) [REDACTED] completed a request for Inpatient Acute Rehabilitation pre-authorization and submitted it to WVMI who is the Utilization Management Agency for BMS. This request was dated May 10, 2007. WVMI evaluated the request and made a determination that medical necessity was not met for Inpatient Rehabilitation.
- 3) The WVMI issued a denial notice on May 15, 2007 stating that, "Documentation does not support that the patient has significant deficits related to activities of daily living, mobility, or communication skills due to a recent acute condition." "There has been no acute episode

in the patient's medical condition to support the need for 24 hour medical care. The services requested can be provided on an outpatient basis.”

- 4) The May 10, 2007 request notes one page 1. Item A. Disability must be recent (within 6 months) The person completing the form, stated under Date of Disability: 5/07 and under Description of Disability: Muscle spasticity contractures. The request notes that the claimant is experiencing decreased strength and muscle spasticity. The goals outlined in the request include improved posture, increased strength and endurance to aim towards long-term goal of claiming independence and ability to transfer. Other goals listed were to improve and refine motor skills.
- 5) Following the May 15, 2007 denial, a Physician of WV University School of Medicine addressed a letter on behalf of the Claimant. This letter was reviewed by WVM. The Physician states in the letter, “I think a couple weeks of inpatient therapy to see if he can be put on a program to try to gain some more independence and more function would be useful for him at his age right now.” The Physician indicates that outpatient therapy has produced limited progress. The Claimant has been under the care of the Department of Orthopedics at WVU for care of spastic quadriplegia.
- 6) 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).
- 7) West Virginia Bureau for Medical Services Provider Manual § 504.3:
Medical Inpatient Rehabilitation Facility
Services covered in this setting are medical inpatient rehabilitation services for Medicaid eligible individuals under 21, and general medical outpatient services, which meet certification requirements of the Office of Facility, Licensure and Certification.
- 8) West Virginia Bureau for Medical Services Provider Manual § 505.1:
Prior Authorization Requirements for Inpatient Services
All inpatient admissions, with the exception of those related to labor and delivery, are subject to medical necessity review and certification of admission by the Bureau for Medical Services Utilization Management Agency.
- 9) West Virginia Bureau for Medical Services Provider Manual § 505.2:
Inpatient Non-Covered Services (Exclusions)
6. Inpatient admission for services which could be performed in an outpatient setting
- 10) West Virginia Medicaid Prior Authorization – Inpatient Hospital Stays for Rehabilitation Criteria.
Inpatient Rehabilitation Screening Criteria for Children Under 21 (Medical Necessity)
7001 Must meet all of the following:

Disability should be recent (e.g., within 6 months)
No previous opportunity for appropriate services.

The patient has one or more conditions requiring intensive and multidisciplinary rehabilitation care or a medical complication and both of the following:

- *24 hour availability of a rehabilitation physician
- *24 hour rehabilitation nursing

Demonstrated impairment in one or more of the following:

- *ADL skills (e.g., dressing, eating, toileting, etc.)
- *Mobility skills (e.g., bed/mat activities, transfers, wheelchair locomotion, ambulation)
- *Communication skills
- *Psychosocial skills

Primary condition indicates all of the following:

- *Medical stability
- *Responsive to verbal or visual stimuli
- *Sufficient mental alertness to participate in the program
- *Mental and physical condition indicates the patient has a potential for rehabilitation

VIII. CONCLUSIONS OF LAW:

- 1) Policy in § 505.1 provides that inpatient admissions are subject to medical necessity review and certification of admission by the BMS Utilization Management Agency.
- 2) WVMI acting as the Utilization Management Agency reviewed documents and information provided and applied such to the Inpatient Rehabilitation Screening Criteria.
- 3) This Screening Criteria is clear in section 7001 that disability should be recent and that no previous opportunity for appropriate services had been given. It also provides that the patient must have conditions requiring intensive and multidisciplinary rehabilitation care or a medical complication, which requires 24-hour availability of a rehabilitation physician and 24 hour rehabilitation nursing. Testimony and evidence did not support that this claimant had a disability which was incurred within the previous 6 months. Testimony and evidence did not support a need for 24-hour availability of a rehabilitation physician or 24-hour rehabilitation nursing care. He has been receiving out-patient therapy and such therapy is appropriate at this time.
- 4) While it is evident that the claimant may be experiencing a greater need for therapy to treat increasing symptoms of his Cerebral Palsy, a recent disability requiring the need for intensive Inpatient Therapy was not supported.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the request for prior authorization for Inpatient Therapy.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 10th Day of October 2007.

**Sharon K. Yoho
State Hearing Examiner**