



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Ave.
Lewisburg, WV 24901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 12, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 26, 2007. Your appeal was based on the Department of Health and Human Resources' denial of your request for a diagnostic laparoscopy under the Medicaid Program.

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 the Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: Certain surgeries performed in place of service 22 (Outpatient Hospital) and 24 (Ambulatory Surgical Center) will require prior authorization, effective February 15, 2006. (Hospital Manual, Chapter 500, Section 508.1)

Information submitted at the hearing revealed that the documentation provided did not meet the criteria for the procedure to be approved.

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny payment for a diagnostic laparoscopy.

Sincerely,

Margaret M. Mann
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

_____,

Claimant,

v.

Action Number 07-BOR-2044

West Virginia Department of Health & Human Resources,

Respondent.

DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on September 26, 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 originally convened on September 26, 2007 on a timely appeal filed July 30, 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 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:

The following individuals participated telephonically:

_____, Claimant

Mary Hamilton, RN, BMS

Sharon Lopez, RN, West Virginia Medical Institute

Observing:

Stacy Hanshaw, RN, Bureau for Medical Services

Presiding at the hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency complied with policy in denying the Claimant's request for a diagnostic laparpscopy.

V. APPLICABLE POLICY:

WVBMS Hospital Manual Chapter 500, Section 508.1 and Attachment 3 – CPT Code 49320 – Pages 1-3
InterQual SmartSheets – 2005

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-A Hospital Manual, Chapter 500, Section 508.1 and Attachment 3 – CPT Code 49320 – Pages 1-3

D-B 1) Information received from [REDACTED] MD 2) InterQual SmartSheets – 2005 Procedures Criteria – Pages 5-7

D-C Notice of Denial Determination by WVMi dated July 23, 2007

VII. FINDINGS OF FACT:

- 1) The request for a diagnostic laparoscopy/umbilical hernia repair was received July 18, 2007. (Exhibit B) Testimony from the WVMi RN revealed that the request for the umbilical hernia repair was approved. Clinical reasons for surgery listed were abdominal pain, abdominal swelling and umbilical hernia. The date of onset was not given. Diagnostic and Outpatient studies listed include abdominal ultrasound (doesn't say when), cyst of liver, calcifications of liver, CT of abdomen – calcifications in liver, arteriosclerotic calcification, aorta without aneurysm, fatty change in pancreas. Related Medications: Nexium 40 mg., 1 a day.
- 2) Testimony from the WVMi RN revealed that that they use InterQual criteria (Exhibit B.2) for an initial review when they receive a request for a procedure. The referral does say abdominal pain but it does not indicate acute abdominal pain or chronic abdominal pain. There is no onset or duration of the pain listed. She typed this review as all indications and referred it to the Physician Reviewer. The Physician Reviewer determined that the request for a laparoscopic procedure for pain only did not constitute enough information or were other clinical studies done to rule out other problems. InterQual criteria requires CBC and urine studies for acute abdominal pain and also for chronic abdominal pain. They did not

have this information.

- 3) Testimony from the Claimant revealed that he does not understand why the additional information was not submitted.
- 4) The Claimant was notified in a letter (Exhibit C) dated July 23, 2007 of the denial. The letter stated, in part:

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

Reason for denial: InterQual criteria not met.

DIAGNOSTIC LAPAROSCOPY – CPT 49320

This did not meet the established criteria as laproscopic procedure
For pain only is not indicated without physical examination
finding and diagnostic studies to rule out other indications.

- 5) West Virginia Bureau for Medical Services Hospital Manual Chapter 500, Section 508.1 reads in part that surgeries performed in place of service 22 (Outpatient Hospital) and 24 (Ambulatory Surgical Center) will require prior authorization, effective February 15, 2006. The selected surgeries that require prior authorization through the BMS review contractor are listed in Attachment 3, along with the PA form that may be utilized. Attachment 3, Outpatient Surgery PA Requirements, list codes 49320 – 49323. The description listed is Lap, abd, peritoneum, and omentum.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires prior authorization for selected surgeries. This includes a diagnostic laparoscopy.
- 2) In conjunction with this provision, the Claimant's physician completed a request on July 18, 2007 for the above procedure. The request was denied because InterQual criteria was not met.
- 3) There was no convincing evidence or testimony provided to change the Department's determination.
- 4) The Department's denial of payment for a diagnostic laparpscopy is valid.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the Claimant's request for payment of a diagnostic laparoscopy through the Medicaid Program.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 12th Day of October, 2007.

**Margaret M. Mann
State Hearing Officer**

**CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION
For
Public Assistance Hearings,**

Administrative Disqualification Hearings, and Child Support Enforcement Hearings

A. CIRCUIT COURT

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

C. THE UNITED STATE DEPARTMENT OF AGRICULTURE

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.