



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

December 3, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 27, 2007. Your appeal was based on the Department of Health and Human Resources' denial of your request for Medicaid payment of a scooter (POV).

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.

Medicaid regulations state that the WV Medicaid Program will replace equipment on an as needed basis due to acute rapid changes in the member's physical condition, wear, theft, irreparable damage or loss by disasters. Prior authorization is required and must be submitted to WVMi along with documentation to medically justify replacement. It is the responsibility of the prescribing practitioner to submit the appropriate clinical documentation i.e., ICD-9 code (s). When documentation fails to meet the criteria for approval WVMi may request additional information to be submitted within seven (7) days. If information is not received, the request will be denied. (West Virginia Department of Health and Human Resources, Chapter 500)

The information submitted at the hearing reveals that the information submitted by your physician was not adequate for WVMi to make a decision on the request. A request for additional information was sent to your physician with a reply requested within seven (7) days. All of this information was not provided and the request was subsequently denied.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying Medicaid payment for a scooter (POV).

Sincerely,

Melissa Hastings
State Hearing Officer
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-2228

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 November 27, 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 convened on November 27, 2007 on a timely appeal filed October 15, 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:

_____, Claimant

JoAnn Ranson, RN, BMS

Virginia Evans, Claims Representative, BMS

Liz Miller, RN, WVMI

Presiding at the hearing was Melissa Hastings, 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 was correct in its decision to deny Medicaid payment for a scooter (POV).

V. APPLICABLE POLICY:

West Virginia Bureau for Medical Services Provider Manual Chapter 500, Volume 6
West Virginia Bureau for Medical Services Provider Manual Chapter 200, Section 250

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Exhibit A-1 Durable Medical Equipment/Medical Supply Manual, Chapter 500, Volume 6
A-2 InterQual Durable Medical Equipment Criteria – Power Operated Vehicles
Exhibit B Information received from [REDACTED] M.D.
Exhibit C Notice of Denial Determination by West Virginia Medical Institute (WVMI) to Claimant dated 08/10/2007

VII. FINDINGS OF FACT:

- 1) On July 17, 2007, West Virginia Medical Institute, hereinafter WVMI, received documentation from [REDACTED] MD (Exhibit B) requesting that the Claimant be approved for Medicaid payment of a 4 wheel scooter (POV).
- 2) The request was reviewed by the nurse at WVMI utilizing InterQual Smart Sheets for Power Operated Vehicles. (A2) Testimony received from the reviewing nurse at WVMI indicates a request for additional information via a fax correspondence dated July 24, 2007 was sent to the Claimant's physician and [REDACTED] as a result of her review.
- 3) Testimony received during this hearing indicates verifications were received for items 110 through 150 on the InterQual Smart Sheets from the Claimant's physician and [REDACTED]. There was no justification supplied from either the physician or the medical supplier as to why the Claimant needed to go from his current mobility device, a power assisted wheel chair to the power operated vehicle (scooter).
- 4) On or about August 10, 2007, a Notice of Denial for Durable Medical Services (DME) was issued by WVMI stating the following:

The requested documentation to meet InterQual criteria was not received. This includes: clarification of why the patient would be able to use a scooter after using a power wheelchair for mobility, along with why the patient would need another mobility device when the power wheelchair is only two years old.

The notification sent to the physician offered the right to a reconsideration of the decision if supporting documentation was submitted within 60 days. Testimony received during the hearing indicates the information was not provided.

- 5) Claimant's testimony indicates he was not aware of the additional information requested. States that he needs the scooter type mobility device to enable him to move about in his yard and neighborhood. The current mobility device that he utilizes will not work in the grass and gravel areas around his home. He was told by the medical supplier that the scooter would work outdoors for him. Claimant's testimony indicates he is no longer employed and his current mobility device was purchased for use in his former work environment.
- 6) Testimony from the department's representative indicates a phone call was made to the medical supplier concerning the scooter and she was advised that the type of scooter requested was not for outdoor use. Also stated that the InterQual Smart Sheets item 160 (A2) indicates the usage of the power operated vehicle would be for the home environment/primary role environment.
- 7) Testimony from the department's representative also indicates that the InterQual Smart Sheet item 112 (A2) shows replacement and current POV/wheelchair in use must be more than 5 years old as one of the requirements. Claimant's current mobility device is two years old.
- 8) Chapter 500, of the West Virginia BMS Provider Manual includes covered services, limitations, and exclusions for DME/Medical Supplies. Section 500 (Introduction) states that the WV Medicaid Program offers a comprehensive scope of Durable Medical Equipment (DME)/Medical Supply services to Medicaid members, subject to medical necessity appropriateness criteria and prior authorization requirements.
- 9) Section 503 of the West Virginia BMS Provider Manual, Chapter 500, states DME/medical supplies and other related services/items provided through DME are considered for reimbursement by WV Medicaid when requested by a prescribing practitioner and determined medically necessary to meet the basic health care needs of the member.
- 10) Policy found in Chapter 500, Section 505 (Prior Authorization) 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 codes(s), all information required on the written prescription (see Section 504, 2nd paragraph, (2) for clarification) and any other relevant information. This policy goes on to say – Effective March 15, 2006 InterQual General Durable Medical Equipment Criteria will be utilized by WVMI for determining medical necessity for DME items. 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) The West Virginia BMS Provider Manual includes covered services, limitations, and exclusions for DME/Medical Supplies and states that Durable Medical Equipment (DME)/Medical Supply services are subject to prior authorization requirements.
- 2) The West Virginia BMS Provider Manual also requires when documentation provided by the physician and/or supplier 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.

- 3) The documentation submitted by the Claimant's physician and the DME provider failed to meet InterQual criteria. Testimony and evidence shows that the agency sent a FAX request to the physician and DME provider requesting additional information to determine Claimant's need for the requested mobility device. Some but not all of the requested information was supplied resulting in a denial for services being sent to the Claimant, Physician and DME supplier. In addition, the Physician was notified that a reconsideration of his request could be made if supporting documentation was submitted to WVMi within 60 days. Testimony indicates that the information needed was not provided by the physician.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant's DME request for prior authorization of Medicaid reimbursement for a 4 wheel scooter (POV).

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 3rd Day of December 2007.

Melissa Hastings
State Hearing Examiner