



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 970  
Danville, WV 25053

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

June 18, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 25, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to deny Medicaid payment for a TENS Unit.

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 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 the following: Transcutaneous Electrical Nerve Stimulation (TENS). 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. (WVDHHR Medicaid Policy Manual, Chapter 500-8)

The information presented at your hearing reveals that prior authorization for payment of a TENS unit was not approved because the information your physician submitted does not meet the InterQual initial clinical indications criteria and there was insufficient documentation for the physician reviewer to determine medical appropriateness. The Department requested additional information which was not submitted.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for prior authorization of Medicaid coverage for a TENS unit.

Sincerely,

Cheryl McKinney  
State Hearing Officer  
Member, State Board of Review

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

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

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

**Action Number: 07-BOR-972**

**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 April 25, 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 April 25, 2007 on a timely appeal filed December 26, 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, BMS  
Pat Woods, BMS  
Elizabeth Miller, WVMi  
Stacy Hanshaw, RN, observing  
Cindy Knighten, RN, observing  
Miranda Walker, RN, observing  
Mary Hamilton, RN, observing  
Joanne Ranson, RN, observing

All individuals participated telephonically

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

### **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 a TENS unit.

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

WVDHHR Medicaid Policy Manual, Chapter 500-8 & InterQual SmartSheets 2006 - Imaging Criteria

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

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

- A-1 WVDHHR Medicaid Manual Chapter 505
- A-2 InterQual Smart Sheet for Durable Medical Equipment Criteria
- B WVMi Durable Medical Equipment/Medical Supplies Authorization Request Form  
And FAX to American Medical Inc., requesting additional information dated 12-6-06
- C Denial notice dated December 18, 2006

#### **Claimant's Exhibits:**

None

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

- 1) On or about December 18, 2006, the Claimant was notified via a Notice of Denial (Exhibit C) that his request for prior authorization (PA) for a TENS unit was denied. The reason for denial is as follows:

Your request for a TENS unit cannot be authorized due to the lack of information required for review. No additional information was provided after request date of December 5, 2006.

The requested documentation to meet Interqual criteria was not received. This includes: is the pain chronic and intractable, has medication been tried, what types, for how long and what was the outcome. Has conservative medical management been tried, what types, for how long, and what was the outcome.

- 2) Evidence presented by the Department reveals that PA is required for Medicaid payment for a TENS unit. West Virginia Medical Institute (WVMI) is the agency contracted to review PA requests and determine eligibility. The Claimant's request (Exhibit-B) was reviewed by West Virginia Medical Institute (WVMI) and the determination was made that the Claimant did not meet any of the clinical indications (Exhibit A-2) for approval. WVMI sent a request to American Medical Inc., indicating additional information was needed to make a determination. The Department received no response. WVMI referred the Claimant's request to Physician Review and the decision was made that there was insufficient medical documentation for the physician reviewer to authorize payment of a TENS unit.
- 3) The Claimant testified that he was unaware that the TENS unit was denied due to a lack of medical documentation being submitted. He indicated he understands the reason now and will discuss this with his doctors at his next visit.
- 4) WVDHHR Medicaid Policy Manual, Chapter 505 states in pertinent 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 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. These items include the following: Transcutaneous Electrical Nerve Stimulation (TENS).

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.

- 5) InterQual SmartSheets 2006 – Imaging Criteria, provides screening guidelines for medical appropriateness of healthcare services. This document provides a list of Clinical Indications (100 through 700) that must be met in order to receive PA. Directly below the listed “Indications,” this form states – “Indication Not Listed (provided clinical justification below).”

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

- 1) WVDHHR Medicaid Policy Manual states that prior authorization (PA) is required before authorization of payment for a TENS unit. Failure to obtain prior authorization will result in denial of the services. The 2006 – Imaging Criteria found on the InterQual SmartSheet is used to determine the medical appropriateness of health care services. If the individual fails to meet the clinical indications criteria during the nurse’s review, the request is forwarded to a physician reviewer to determine medical appropriateness.
- 2) The evidence reveals that the Department (through WVMI) received a request from the Claimant’s physician for prior authorization (PA) of Medicaid payment for TENS unit. Due to a lack of medical documentation being submitted, WVMI requested specific additional medical information which was not submitted. The physician reviewer was unable to find clinical justification to approve the authorization of TENS unit due to a lack of documentation.

#### **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 a TENS unit.

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

See Attachment

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

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 18<sup>th</sup> Day of June 2007.**

---

**Cheryl McKinney  
State Hearing Officer**