



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

August 18, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 13, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny Medicaid payment for Occupational Therapy.

In arriving at a decision, the State Hearings 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: Medicaid does not cover Occupational and/or Physical Therapy services in excess of twenty (20) visits provided for chronic conditions per person, per calendar year (West Virginia Occupational Therapy/Physical Therapy Manual § 550).

The information which was submitted at your hearing revealed that you have already reached the twenty (20) treatment limit for this calendar year for therapy for your chronic condition of CVA.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to deny Medicaid payment for Occupational Therapy.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review  
Evelyn Whidby, Bureau of Medical Services

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

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**Claimant,**

**v.**

**Action Number: 08-BOR-1661**

**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 August 13, 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 August 13, 2008 on a timely appeal, filed June 24, 2008.

**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  
\_\_\_\_\_, Claimant's husband  
Miranda Walker, Bureau of Medical Services

Debbie Pauley, West Virginia Medical Institute (WVMI)

Presiding at the Hearing was Kristi Logan, 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's decision to deny Medicaid payment for Claimant's Occupational Therapy was correct.

**V. APPLICABLE POLICY:**

West Virginia Occupational/Physical Therapy Policy Manual § 530.1 and 550

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

**Department's Exhibits:**

- D-1 West Virginia Occupational/Physical Therapy Policy Manual § 530.1 and 550 (pages 1 and 2)
- D-2 Physical/Occupational Therapy Prior Authorization Request Form (pages 5-9 and 14)
- D-3 Medical Records from Appalachian Regional Healthcare (pages 10-13)
- D-4 Notification Letters dated June 13, 2008 to Claimant, Dr. [REDACTED] and [REDACTED] (pages 15-17)

**Claimants' Exhibits:**

- C-1 None

**VII. FINDINGS OF FACT:**

- 1) A request for prior authorization for Occupational Therapy for Claimant was submitted June 5, 2008 to WVMI by [REDACTED] for approval (D-2). A notification letter dated June 13, 2008 was issued and read in part (D-4):

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

Documentation provided does not indicate medical necessity, specifically: The patient had a Cerebral Vascular Attack (CVA) in October 2007 which by now is considered a chronic condition. WV Medicaid does not cover occupational therapy for chronic conditions, over 6 months. Also the agency is asking for units thru [sic] the end of this calendar year and not basing the care on how the patient progresses.

- 2) Debbie Pauley of WVMI testified that a condition is considered chronic if it lasts for more than six (6) months. Claimant's primary diagnosis is CVA (stroke) which occurred in October 2007 (D-2). As of the submission of the prior authorization request in June 2007, Claimant's condition had lasted for eight (8) months. Medicaid will not cover more than twenty (20) Occupational Therapy (OT) and/or Physical Therapy (PT) visits for a chronic condition per year.

Ms. Pauley also stated that the request form listed Claimant's secondary diagnosis as Abnormality of Gait (D-2). This diagnosis would be suited for PT instead of OT as OT treats the upper extremities. PT would help with her walking deficiencies.

Ms. Pauley pointed out that [REDACTED] requested seventy-two (72) treatments lasting from June 5, 2008 to January 1, 2009 (D-2). This request would not be based on Claimant's progress and her need for additional treatments.

- 3) Claimant's husband, [REDACTED] testified that Claimant has not had twenty (20) OT treatments this year. She has had some OT treatments for the use of her right arm and she is showing improvement. They are requesting twenty (20) more OT treatments because she cannot wait until January 2009 to start the OT again. She is currently in PT for her gait.

Mr. [REDACTED] also didn't feel like it was fair to not grant her more than twenty (20) visits for OT and PT combined because Claimant's condition is considered chronic.

- 4) West Virginia Occupational/Physical Therapy Policy Manual § 530.1 states:

For Medicaid payment purposes, prior authorization is not required for members who need no more than 20 occupational/physical therapy visits during a calendar year, in addition to the evaluation and re-evaluation. This benefit is for each member, per calendar year.

- 5) West Virginia Occupational/Physical Therapy Policy Manual § 550 states:

WV Medicaid does not cover the following occupational/physical therapy services.

- Occupational/physical therapy services in excess of 20 visits provided for chronic conditions such as arthritis, cerebral palsy, and developmental delay

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

- 1) Per policy, Medicaid will cover only twenty (20) Occupational Therapy and/or Physical Therapy treatments per person per year for chronic conditions.
- 2) Claimant had already received the maximum twenty (20) treatments of Occupational Therapy combined with Physical Therapy for 2008 as of the prior authorization request

submitted in June 2008. Claimant's CVA is considered chronic because it occurred in October 2007.

- 3) Claimant is not eligible for additional Occupational Therapy treatments until the next calendar year. The Department correctly denied the prior authorization request for additional Occupational Therapy for Claimant.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny Medicaid payment for Claimant's Occupational Therapy.

**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 August, 2008.**

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**Kristi Logan  
State Hearing Officer**