



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

January 4, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 11, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to deny Medicaid payment for Chiropractic 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.

Eligibility for Medicaid services is based on current policy and regulations. Some of these regulations state that coverage of chiropractic services for subluxation of the spine is limited to one treatment per day and no more than twelve (12) treatments without prior authorization. A member may receive an additional twelve (12) treatments per calendar year if medically necessary and prior authorized. The maximum number of treatments that a member can have in any given year is 24 treatments. (WVDHHR Medicaid Policy Manual, Section 502 and 521)

The information presented at your hearing reveals that a request for additional chiropractic services was made on July 23, 2007. At that time you had already received the maximum number of chiropractic treatments (24) permitted by Medicaid regulations.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for additional chiropractic treatments.

Sincerely,

Melissa Hastings
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
BOARD OF REVIEW**

Anna _____,

Claimant,

v.

Action Number: 07-BOR-2255

**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 December 11, 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 December 11, 2007 on a timely appeal filed September 7, 2007.

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
Miranda Walker, RN, BMS

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

All parties participated telephonically.

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 chiropractic services for the claimant.

V. APPLICABLE POLICY:

WVDHHR Medicaid Policy Manual, Chapter 500, sections 502 and 521

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 BMS Provider Manual Chapter 500, section 502 and 521
- D-2 Chiropractic Prior Authorization Information Form dated 07-23-2007
- D-3 WVMi Prior Authorization Request for Additional Information dated 07-24-2007 with office notes attached
- D-4 Notice of Denial dated 08-02-2007 to claimant
- D-5 Notice of Denial dated 08-02-2007 to _____, DC

VII. FINDINGS OF FACT:

- 1) On July 23, 2007 claimant's chiropractor Dr. _____ submitted a request to the Department for approval for twelve chiropractic treatments. (D2) There were no accompanying documents submitted.
- 2) Upon receipt of the request, a representative from West Virginia Medical Institute reviewed the request and sent a request via FAX for additional information on July 24, 2007 (D3). The request indicated that the provider needed to supply copies of the patient's daily treatment record for 2007. Evidence presented by the Department reveals the referring chiropractor furnished the daily office notes for the Claimant on July 27, 2007. These office notes show that the Claimant received chiropractic treatments beginning January 2, 2007 and ending July 24, 2007. A total of 30 treatments are noted to have been given. A determination was made by the reviewing RN that the Claimant had received the maximum number of chiropractic treatments (24) permitted by the Medicaid program.

- 3) A Notice of Denial was issued to both the claimant (D4) and physician (D5) on August 2, 2007 indicating that

Documentation provided does not indicate medical necessity specifically:

Patient has exceeded the 24 visits allowable by Medicaid.

- 4) Claimant's testimony indicates that she has triple scoliosis of her spine. This condition causes her to have tremendous pain. She has found that the chiropractic treatment she was receiving once per week has helped in alleviating the pain. Her physician has referred her to a pain management program and she is going to receive cortisone injections in her spine in hopes of alleviating the pain. Claimant feels that the limitation of 24 chiropractic visits per year is not adequate for her and requests an exception to the rule if possible.

- 5) WVDHHR Medicaid Policy Manual, Chapter 500, section 502 (D1) states:

All services must be medically necessary and appropriate to the member's needs in order to be eligible for reimbursement. The medical records of all members receiving chiropractic services must contain documentation that establishes the medical necessity of the services. Manipulation is deemed ineffective and not medically necessary when it is rendered for conditions other than subluxation of the spine.

IMPORTANT: The fact that a provider prescribes, recommends, or approves medical care does not in itself make the care medically necessary or a covered service. Nor does it mean that the patient is eligible for Medicaid benefits.

- 6) WVDHHR Medicaid Policy Manual, Chapter 500, section 521 (D1) states:

Coverage of chiropractic services for subluxation of the spine is limited to one treatment per day for a Medicaid member and no more than twelve (12) treatments without prior authorization. A member may receive an additional twelve (12) treatments per calendar year if medically necessary and prior authorized. The maximum number of treatments that a member can have in any given year is 24 treatments.

VIII. CONCLUSIONS OF LAW:

- 1) WVDHHR Medicaid Policy Manual reveals that a maximum of 24 chiropractic treatments may be authorized for a patient within a calendar year.
- 2) The evidence reveals that the Claimant received at least 30 chiropractic treatments between the dates of January 2, 2007 through July 24, 2007.

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 twelve (12) additional chiropractic treatments made on July 23, 2007.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of January, 2008.

**Melissa Hastings
State Hearing Officer**