



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

March 26, 2008

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 15, 2008. Your hearing request was based on the Department of Health and Human Resources' denial of your request for Medicaid payment of a power wheelchair.

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 Medicaid payment of Durable Medical Equipment (DME) is based on current policy and regulations. Some of these regulations state as follows: The service limit for a wheelchair is one (1) unit per five (5) rolling years. Replacement of DME equipment may be covered by WV Medicaid on an as-needed basis due to acute rapid changes in the member's physical condition, wear, theft, irreparable damage, or loss by disasters. For consideration of equipment replacement, the provider must obtain prior authorization. The request must be submitted to WVMI prior to rendering services. Documentation to medically justify replacement must accompany all requests. (West Virginia Bureau for Medical Services Provider Manual, Chapter 500, Volume 6, Section 503.1. c; Appendix I)

The information which was submitted at your hearing revealed that your request for a power wheelchair exceeds the service limit for this type of DME, with insufficient documentation of change in physical condition to justify a replacement.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to deny Medicaid payment for a power wheelchair.

Sincerely,

Todd Thornton  
State Hearings 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**

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

**Action Number: 07-BOR-2747**

**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 March 26, 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 February 15, 2008 on a timely appeal, filed December 3, 2007.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision.

**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 Witness

Jenny Linville, RN, WVMI

Virginia Evans, Claims Representative, BMS

JoAnn Ranson, RN, WVMI

Presiding at the Hearing was Todd Thornton, 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 or not the Department was correct in its decision to deny Medicaid payment for a power wheelchair.

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

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

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

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

D-1 Durable Medical Equipment/Medical Supply Manual, Chapter 500, Section 502.2, Section 503, and Attachment I

D-2 Information received from [REDACTED] M.D., and [REDACTED]

D-3 Notice of Denial Determination by West Virginia Medical Institute

#### **Claimants' Exhibits:**

C-1 Letter from Claimant

C-2 Diagram from Claimant

C-3 Letter from Claimant's mother

C-4 Letter from Claimant's sister

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

- 1) On October 30, 2007, West Virginia Medical Institute (WVMI) received documentation (Exhibit D-2) from [REDACTED] MD, and [REDACTED] requesting approval of Medicaid payment for a power wheelchair for the Claimant. Dr. [REDACTED] commented on the Claimant's change in medical condition as follows: "She has worsening of charcot joints due to neuropathy and is unable to walk."
- 2) On November 16, 2007, a Notice of Denial for Durable Medical Services (Exhibit D-3) was issued by WVMI to the claimant which indicated that the request was denied due to a service limit for wheelchairs of one (1) per five (5) years, and that a heavy duty wheelchair was provided to the Claimant in September 2007.

- 3) Testimony from the Department confirmed that a K0006, Heavy Duty Wheelchair was approved for the Claimant on September 7, 2007, and that the subsequent request for a power wheelchair exceeded the service limit for this equipment.
- 4) The Claimant testified that at the time she received her manual wheelchair she was living in a house, near friends and family who provided her with assistance when it was needed. The Claimant stated that she has since moved to an apartment and, without the assistance of friends and family, she finds it difficult to propel the manual wheelchair.
- 5) Claimant's witness provided testimony that the Claimant has difficulty using the manual wheelchair.
- 6) The Department contended that there has been a change in living environment, but no significant, documented change in the Claimant's diagnosis.

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

- 1) Durable Medical Equipment/Medical Supply Manual, Chapter 500, Attachment I lists the service limit for a heavy duty wheelchair as - 1 unit per 5 rolling years.
- 2) Durable Medical Equipment/Medical Supply Manual, Chapter 500, Section 503.1. c states, in pertinent part - Replacement of DME equipment may be covered by WV Medicaid on an as-needed basis due to acute rapid changes in the member's physical condition, wear, theft, irreparable damage, or loss by disasters. The policy continues to state - Documentation to medically justify replacement must accompany all requests.
- 3) The Claimant's request for a power wheelchair exceeded the service limit for this type of equipment, and failed to document the medical justification required for replacement within the service limit.

#### **IX. DECISION:**

It is the decision of the State Hearings Officer to **uphold** the action of the Department to deny Medicaid payment for a power wheelchair.

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

See Attachment

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

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ Day of March, 2008.**

---

**Todd Thornton  
State Hearings Officer**