



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**P. O. Box 1736**  
**Romney, WV 26757**

**Joe Manchin III**  
**Governor**

**Martha Yeager Walker**  
**Secretary**

April 29, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 16, 2008. Your appeal was based on the Department of Health and Human Resources' decision to deny Medicaid coverage for the purchase of an ultra lightweight wheelchair.

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.

Current Medicaid regulations provide as follows: The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Specified services require prior approval and must be determined medically necessary and appropriate in order for the services to be covered. Wheelchair replacement is subject to a one per five-year service limit or on an as-needed basis. (West Virginia Bureau for Medical Services Provider Manual § 500)

The information submitted at the hearing reveals that your most recently purchased wheelchair is not quite 5 years old however; the irreparable condition of this chair and your need for such a chair inside your home meets the as-needed criteria for approval.

It is the decision of the State Hearing Examiner to **reverse** the Department's action to deny coverage of the Ultra Lightweight chair requested in August 2007.

Sincerely,

Sharon K. Yoho  
State Hearing Examiner  
Member, State Board of Review

cc: Chairman, Board of Review  
Evelyn Whidby, BMS

# **WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES**

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number 08-BOR-701**

**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 April 16, 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 April 16, 2008 on a timely appeal filed December 12, 2007.

This hearing was granted for a request received outside of the 90 days allowed. The claimant did not receive her notice as the Department entered an incorrect zip code for her address.

### **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, (BMS), 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's Witnesses:

\_\_\_\_\_, claimant

\_\_\_\_\_, claimant's friend

Department's Witnesses:

Joann Ranson, Bureau of Medical Services, (BMS)

Virginia Evans, BMS  
Jennifer Poff, West Virginia Medical Institute, (WVMI)

Presiding at the hearing was Sharon K. Yoho, 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 denying a request for Medicaid coverage for an Ultra Light Weight Wheelchair.

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

West Virginia BMS Provider Manual Chapter 501 thru 503.1c and 508.  
West Virginia BMS Provider Manual Chapter 500 Attachment I  
West Virginia BMS Provider Manual Chapter 500 introduction

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

Department's Exhibits:

- D-1 BMS Provider Manual Chapter 500 thru 503.1a
- D-2 BMS Provider Manual Chapter 500 Attachment 1
- D-3 Authorization Request dated 8/27/07
- D-3a Letter of Medical Necessity dated August 7, 2007
- D-4 Notice of denial mailed to claimant at incorrect address dated September 10, 2007
- D-5 Notice of denial mailed to requesting Physician dated September 10, 2007
- D-6 Notice of denial mailed to provider of DME dated September 10, 2007

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

- 1) The claimant is an active recipient of the WV Medicaid program. She is a 25-year-old female with a diagnosis of Spina Bifida. Her permanent home is in [REDACTED] WV however; she is attending [REDACTED]
- 2) Bureau of Medical Services purchased the claimant a motorized wheelchair on June 11, 2002. The claimant obtained a manual wheelchair through the Children With Special Health Care program (CSHCN) on February 26, 2004.
- 3) The claimant's mother transports both chairs to college for her in an SUV. The claimant uses her power chair to get from class to class during the day. She resides in a rented mobile home at college. The power chair cannot be used in that home as it will not fit through the doorways and many areas are too small in which to turn it. Alterations of the doorways are

not possible since the home is a mobile home and it is rented property.

- 4) The manual chair has reached an unserviceable condition and has become unsafe. The frame is bent and wheels have come off on two occasions. Letter of Medical Necessity, Exhibit D3a, states the chair needs a new frame, new caster forks bilateral, new tires and tubes for the back, and new height-adjustable armrest assemblies bilaterally.
- 5) The manual chair is at this date four years two months old. At the time of the August 2007 request, the manual chair was three years six months old and the motorized chair was five years two months old. It is not clear, whether the Department made their decision based on the assumption that the manual chair was purchased in February 2006 or if February 2006 was merely a clerical error in the notice.
- 6) The Department's reason for denial was based on a one per five-year service limit. The notice, Exhibit D-4, states, "Your request for an ultra lightweight wheelchair cannot be approved. According to our records, this patient was provided a wheelchair February 2006. Per WV Medicaid, the service limit for mobility aids such as wheelchairs is one per five years."
- 7) The Department testified that they can waive the five-year limit for special circumstances, but if the patient has a serviceable chair, a waiver cannot be granted. The Department is considering the power chair as a serviceable chair and therefore they would not authorize the purchase of another chair. The Department pointed out that if the claimant were to get a new manual chair, that the Department could only provided repairs to one of her chairs.
- 8) West Virginia Bureau for Medical Services Provider Manual § 500: INTRO:  
The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Covered and authorized services must be rendered by enrolled providers within the scope of their license and in accordance with all State and Federal requirements. Any service, procedure, item, or situation not discussed in the manual must be presumed non-covered unless informed otherwise in writing by the Bureau for Medical Services (BMS).
- 9) West Virginia Bureau for Medical Services Provider Manual § 502.1:  
Prescribing Practitioner  
The prescribing practitioner is responsible for providing WVMH with medical necessity documentation. The Internet is the most efficient means of keeping current on updates and information regarding the Bureau for Medical Services.
- 10) West Virginia Bureau for Medical Services Provider Manual § 503:  
Covered Durable Medical Equipment and Medical Supplies:  
Attachment I describes the DME/medical supplies through current HCPCS codes, description of each code, replacement code for closed codes (as appropriate), service limits, prior authorization requirements and special coverage instructions.
- 11) West Virginia Bureau for Medical Services Provider Manual § 503.1 & 503.1.c:  
Durable Medical Equipment and/or accessory repairs and replacements are limited to medically necessary items purchased by BMS or Children with Special Healthcare Needs Program (CSHCN). All DME repairs and replacement require PA through

WVMI. Only one (1) MAE of the same category will be maintained or repaired by BMS at any time.

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.

- 12) West Virginia Bureau for Medical Services Provider Manual § 505:

Prior Authorization:

It is strongly recommended that DME providers, in partnership with prescribing practitioners, assist in obtaining prior authorizations. PA does not guarantee payment. Refer to Attachment I for specific DME/medical supplies requiring PA and service limits for covered services.

- 13) West Virginia Department of Health & Human Resources Bureau for Medical Services, Attachment I - HCPCS Codes for Durable Medical Equipment and Supplies: HCPCS code K0009 and K0011 Service Limit 1 PER 5 YEARS Medical necessity review will be based on interqual DME General Criteria.

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

- 1) Policy provides that the Medicaid program will only maintain or repair one MAE of the same category. Attachment I identifies the requested lightweight chair and the power chair as being in the same category. Attachment I also specifies a service limit of one in 5 years. The claimant's motorized chairs is over 5 years old. The other is at this time 4 years and 2 months old and is unserviceable.
- 2) Policy 503.1 provides that chairs purchased by BMS and or CSHCN as being subject to the maintenance and repair policies. Only one (1) MAE of the same category will be maintained or repaired by BMS at any time. The Department did not provide policy to support their position that if the patient has a chair that is still serviceable the purchase of another chair cannot be approved even if that serviceable chair is older than 5 years. If the serviceable motorized chair could be used by the claimant inside her home then the need for a replacement manual chair would not be met. It is understood that the Department can maintain only one chair and if the claimant did obtain a new chair, only one of her chairs can be maintained and serviced by the Department.
- 3) Policy 503.1c states, 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 claimant's manual chair while not quite 5 years old is in a worn condition and needed repairs including a bent frame strongly suggests that the chair has irreparable damage. The denial notice indicates that the Department did not consider a waiver of the one in five year service limit nor did it indicate that the denial was based on the claimant being in the possession of a serviceable chair. Testimony and evidence supports the need of replacement for this manual chair. The claimant need be aware that only a new manual chair or the old motorized chair can be maintained by Medicaid funds.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the Department's denial of the request for payment authorization through the Medicaid Program for the purchase of the requested Ultra Lightweight wheelchair.

**X. RIGHT OF APPEAL:**

See Attachment.

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 29th Day of April 2008.**

---

**Sharon K. Yoho  
State Hearing Examiner**