



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

September 25, 2008

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 1, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny pre-authorization coverage approval for a Laparoscopic Cholecystectomy.

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. (West Virginia Bureau for Medical Services Provider Manual §500)

Information submitted at your hearing revealed that the facility requesting prior approval failed to justify medical necessity and appropriateness.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny coverage for the surgery.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Faye Armstead, Department Representative

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

Claimant,

Action Number: 08-BOR-875

**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 September 25, 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 May 1, 2008 on a timely appeal, filed February 12, 2008.

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
Cindy Knighton, RN, Bureau for Medical Services

Sharon Lopez, RN, West Virginia Medical Institute

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 to be decided is whether the Department is correct in denying a request for Medicaid coverage for a Laparoscopic Cholecystectomy (gallbladder surgery).

V. APPLICABLE POLICY:

West Virginia BMS Provider Manual Chapter 500, 502, 508.1
West Virginia BMS Provider Manual Chapter 508, Attachment 3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hospital Manual, Chapter 500, Section 508.1, and Attachment 3
- D-2 Notice of Denial Determination by WVMI; InterQual – 2007 – Procedures Criteria
- D-3 Information received from [REDACTED] MD

VII. FINDINGS OF FACT:

- 1) On January 11, 2008, the Claimant's physician and [REDACTED] submitted a request to the Department for prior approval for coverage of a Laparoscopic Cholecystectomy (Gallbladder surgery) procedure for the Claimant (Exhibit D-3).
- 2) WVMI reviewed documents submitted with the request and found that medical necessity and appropriateness was not supported. A notice of denial was issued to the Claimant on January 15, 2008 (Exhibit D-2), which states the reason for denial as follows:

InterQual criteria was not met.

LAPAROSCOPIC CHOLECYSTECTOMY

The information provided did not meet the indications for this procedure. There was a negative ultrasound and negative HIDA scan, normal abdomen on physical exam and no conservative treatment with acid suppression medication.

- 3) The West Virginia Bureau for Medical Services Provider Manual §508.1, #4, states:

Certain surgeries performed in place of service 22 (Outpatient Hospital) and 24 (Ambulatory Surgical Center) will require prior authorization, effective February 15, 2006. The selected surgeries that require prior

authorization through the BMS review contractor are listed in Attachment 4, along with the PA form that may be utilized.

This Attachment notes that “Lap cholecystectomy,” with a CPT Code of 47562, is a surgery requiring prior authorization.

- 4) The Claimant’s physician noted a diagnosis of RUQ (Right Upper Quadrant) pain and contracted gallbladder in his authorization request (Exhibit D-3). The results of an ultrasound and a HIDA scan performed on the Claimant were submitted with the authorization request. The impression from the ultrasound stated:

IMPRESSION:

1. The gallbladder is small and contracted but no abnormalities are noted.

The impression from the HIDA scan stated:

IMPRESSION:

1. Negative hepatobiliary imaging examination.

The HIDA scan reported an 61.6% ejection factor and the WVMI representative testified that the ejection factor would need to be less than 35% to justify necessity of the surgery. The physician’s description of the Claimant’s abdomen, upon examination, was “Soft. Nondistended and nontender. No hepatosplenomegaly.” Testimony from the WVMI representative confirmed that this information did not meet the criteria in the InterQual 2007 – Procedures Criteria for Laparoscopic Cholecystectomy (Exhibit D-2).

- 5) The introduction to the West Virginia Bureau for Medical Services Provider Manual §500 states:

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).

- 6) With regard to prior authorization, the West Virginia Bureau for Medical Services Provider Manual §320.3 states:

It is the responsibility of the provider of the service to secure prior approval before rendering the service. The provider must submit written documentation demonstrating the medical necessity and appropriateness of the proposed treatment.

- 7) With regard to medical necessity, the West Virginia Bureau for Medical Services Provider Manual § 502 states:

All services must be medically necessary and appropriate to the member's needs in order to be eligible for payment. The medical records of all members receiving Practitioner Services must contain documentation that establishes the medical necessity of the service. 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. It is the provider's responsibility to verify Medicaid eligibility and obtain appropriate authorizations before services are rendered.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that prior authorization is required for the proposed surgery and that necessity and appropriateness must be proven. The provider did issue a request for prior authorization, but the request did not contain information needed by the Department to determine that the medical procedure was necessary and appropriate.
- 2) The Department followed proper policy and procedures in their processing of the request and their denial was due to the provider's failure to document and demonstrate the medical necessity and appropriateness of the proposed surgery.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the request for payment authorization through the Medicaid Program for the Laparoscopic Cholecystectomy.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of September, 2008.

Todd Thornton
State Hearing Officer