



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 16, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 14, 2009. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid authorization for physical/occupational therapy.

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 as follows: West Virginia Medicaid does not authorize physical or occupational therapy sessions exceeding 20 per calendar year for treatment of a chronic condition. (WVDHHR Physical/Occupational Therapy Manual Chapter 515.3 and 515.6.1)

Evidence presented during your hearing reveals that your request for payment of therapy services did not meet eligibility criteria and could not be authorized.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny Medicaid authorization for physical/occupational therapy.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lorna Harris, BMS

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

-----,

Claimant,

v.

Action Number(s): 09-BOR-1284

**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 July 16, 2009 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 telephonically on July 14, 2009 on a timely appeal filed May 28, 2009.

II. PROGRAM PURPOSE:

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 mother and Power of Attorney

Virginia Evans, DHHR Specialist, Bureau for Medical Services

Jenny Craft, RN, Case Manager, West Virginia Medical Institute

Presiding at the hearing was Pamela L. Hinzman, 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 was correct in its decision to deny Medicaid payment for physical/occupational therapy.

V. APPLICABLE POLICY:

WVDHHR Physical/Occupational Therapy Manual Chapter 515.3 and 515.6.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-A WVDHHR Physical/Occupational Therapy Manual Chapter 515 and West Virginia Medical Institute Screening Criteria

D-B Information from Dr. -----and -----, Physical Therapist

D-C Notices of Denial dated May 27, 2009

D-D Information from Dr. -----and -----, Occupational Therapist

D-E Notices of Denial dated May 19, 2009

VII. FINDINGS OF FACT:

- 1) The Claimant's physician, Dr. -----, submitted Medicaid Authorization Request Forms (D-B and D-D) to West Virginia Medical Institute (WVMI) in May 2009 requesting pre-authorization for physical/occupational therapy services.
- 2) WVMI sent Notices of Denial (D-C and D-E) to the Claimant, her physician and therapists on May 19, 2009 and May 27, 2009. The notices state that the requests for therapy services were denied because documentation reflects that the Claimant suffers from a chronic condition, quadriplegia. Her condition is the result of a spinal cord injury sustained in a motor vehicle accident in May 2008.
- 3) The Department's witnesses testified that Medicaid can provide payment for 20 therapy sessions annually, however requests for continued therapy must meet prior authorization criteria. They indicated that additional therapy cannot be authorized for the treatment of chronic conditions, which are defined as conditions lasting six or more months.

- 4) The Claimant's mother testified that the Claimant, who is 27 years old, requires therapy so that her condition can continue to improve. She stated that the Claimant can now move the toes on her right foot and could make more progress with additional treatment. The Claimant's mother expressed frustration in regard to locating sources of assistance for her daughter.
- 5) WVDHHR Physical/Occupational Therapy Manual Chapter 515.3 (D-A) states, in part:

Continuation of services may be considered, when an exacerbated episode of a chronic condition is clearly documented; otherwise chronic conditions are non-covered...

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.
- 6) WVDHHR Physical/Occupational Therapy Manual Chapter 515.6 (D-A) states, in part:

West Virginia 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.
- 7) WVMi Physical and Occupational Therapy Screening Criteria (D-A) states that outpatient physical therapy sessions exceeding 20 sessions per calendar year (January-December 31) are excluded from payment when a chronic condition exists. A chronic condition is defined as a condition lasting six months or greater.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires pre-authorization of Medicaid coverage for physical/occupational therapy sessions in excess of 20 per calendar year. Policy stipulates that additional therapy services for chronic conditions are not covered by West Virginia Medicaid.
- 2) The Claimant's physician requested pre-authorization for Medicaid coverage of physical/occupational therapy for the Claimant in excess of the 20 covered visits per year.
- 3) Evidence indicates that WVMi denied the request because the Claimant suffers from a chronic condition and such conditions are excluded from coverage.
- 4) Whereas medical evidence submitted by the Claimant's physician failed to meet prior authorization criteria, the Department acted correctly in denying the Claimant's request for Medicaid payment of physical/occupational therapy services.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny Medicaid authorization for therapy services in excess of 20 sessions per year.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th Day of July 2009.

Pamela L. Hinzman
State Hearing Officer