



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

December 16, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 10, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization for a bunionectomy.

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 the Medicaid program is based on current policy and regulations. These regulations provide that effective February 15, 2006, certain outpatient surgeries require prior authorization (Practitioners Manual § 519.20.1).

The information submitted at your hearing was insufficient to support the medical necessity of a bunionectomy.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to deny prior authorization of your bunionectomy.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Bureau of Medical Services

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

-----,

Claimant,

v.

Action Number: 09-BOR-1928

**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 10, 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 on December 10, 2009 on a timely appeal, filed September 22, 2009.

II. PROGRAM PURPOSE:

The Program entitled Medicaid is 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

Joann Ranson, Bureau of Medical Services (testified by phone)

Jenny Craft, RN, West Virginia Medical Institute (testified by phone)

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department correctly denied prior authorization of a bunionectomy for Claimant.

V. APPLICABLE POLICY:

Practitioners Manual § 519.20.1 and Attachment 17

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Practitioners Manual § 519.20.1 and Attachment 17
- D-2 Prior Authorization Request Form dated August 24, 2009 and Radiology Report dated August 24, 2009
- D-3 InterQual Criteria – Bunionectomy
- D-4 Denial Notification Letters dated August 28, 2009 to Claimant and [REDACTED] DPM

Claimants' Exhibits:

- C-1 Physician's Notes dated August 24, 2009 and November 23, 2009 from [REDACTED] DPM

VII. FINDINGS OF FACT:

- 1) A request for prior authorization of a bunionectomy for Claimant was submitted to the West Virginia Medical Institute (WVMI) for approval on August 24, 2009 by [REDACTED] DPM (D-2).

A denial notification letter was issued by the Department on August 28, 2009 which read in pertinent parts (D-4):

A request for prior authorization was submitted for outpatient services. Based on the medical information provided, the request has been denied.

Bunionectomy left foot

Per information submitted, there was no conservative documented [sic].

- 2) Jenny Craft, nurse reviewer with WVMI, testified to the reason for the denial of the bunionectomy. According to the information submitted by Claimant's physician, the reason for the procedure was a painful left foot when walking. The request form indicated there were no related medications, treatments or therapies provided to Claimant (D-2).

This information was compared to the InterQual criteria for a bunionectomy. Ms. Craft stated because there were no documentation of failed conservative treatments, therefore the InterQual criteria could not be met (D-3).

- 3) Claimant testified that he had been prescribed shoe pads, but by a different physician. This physician would not operate on Claimant and that is when he started seeing Dr. [REDACTED]
- 4) Practitioners Manual § 519.20.1 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 [Bureau of Medical Services] review contractor are listed in Attachment 17, along with the PA [prior authorization] form that may be utilized.

- 5) Practitioners Manual Attachment 17 lists:

CPT Code 28296 Correction of bunion requires prior authorization

VIII. CONCLUSIONS OF LAW:

- 1) The authorization form and accompanying documentation submitted by Dr. [REDACTED] was insufficient for WVMI to make a determination of the medical necessity of a bunionectomy as shown on the InterQual SmartSheets.
- 2) The Department correctly denied prior authorization of the bunionectomy for Claimant for lack of medical documentation supporting the medical necessity of the procedure.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny Claimant prior authorization for a bunionectomy.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th day of December 2009.

Kristi Logan
State Hearing Officer