



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

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

December 3, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 30, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to deny your prior authorization for Medicaid payment for a surgical procedure of the left cubital tunnel release.

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 current policy and regulations. These regulations provide that certain surgeries performed in an outpatient hospital and ambulatory surgical center require prior authorization. Such surgeries are completed after all conservative methods of treatments have been exhausted. Examples of conservative treatment methods are therapy and activity modification for greater than six weeks of treatment.

The information which was submitted at your hearing revealed that your prior authorization request was denied based on incomplete data submitted for review to West Virginia Medical Institute.

It is the decision of the State Hearings Officer to Uphold the action of the Department to deny your request for prior authorization for outpatient surgery for the left cubital tunnel release.

Sincerely,

Eric Phillips
State Hearing Officer
Member, State Board of Review

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

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

-----,

Claimant,

v.

Action Number: 09-BOR-2096

**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 3, 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 November 30, 2009 on a timely appeal, filed October 15, 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
JoAnne Ranson, BMS, Department representative
Julie Mobayed, WVMI, Department witness

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to deny the Claimants prior authorization request for outpatient surgery of the left cubital tunnel release.

V. APPLICABLE POLICY:

West Virginia Medicaid Policy Manual Chapter 519.20.1 and Attachment 17, Outpatient Surgery Prior Authorization Requirements

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Medicaid Policy Manual Chapter 519.20.1, Attachment 17 Outpatient Surgery Prior Authorization Requirements
- D-2 Prior Authorization request and information from Dr. [REDACTED] MD dated September 25, 2009
- D-3 Notice of Denial for Outpatient Services dated October 1, 2009
- D-4 Information submitted by Claimant dated August 26, 2009 from [REDACTED] and [REDACTED] Inc.

VII. FINDINGS OF FACT:

- 1) Claimant's physician [REDACTED] M.D. submitted a prior authorization request for outpatient surgery on September 25, 2009, Exhibit D-2. The surgical procedure requested on the request was for a left cubital tunnel release with a diagnosis related to the surgical procedure of cubital tunnel syndrome. Along with prior authorization request, the physician sent the following information:

"Pt is having problems with her left-hand numbness for sometime [sic]. She has tried various treatment [sic], injections, medications but continues to have pain and numbness in her ring and little finger and sensitivity at the elbow.

On exam pt does have decreased sensation along the ring and little finger of the left hand. She has a positive Tinels at the elbow and also some weakness and atrophy of the first dorsal inner osseous. Pt has moderate severe left cubital tunnel and will need to undergo left cubital tunnel release."

- 2) On October 1, 2009, Exhibit D-3 Notice of Denial for Outpatient Services was issued to Claimant informing her of the denial of her prior authorization request. This notice documents the following:

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

Reason for Denial: InterQual Criteria not met, specifically:

Left Cubital Tunnel Release – Criteria 121, 124 there was no documented EMG/NCS results and there was no documentation that symptoms continued after treatment with a splint and activity modification for greater than or equal to 6 weeks.

This notice also informs the physician that a request for reconsideration may be submitted to WVMI within sixty days of the notice. Exhibit D-4, was submitted as part of the hearing record but not considered by WVMI as part of its determination.

- 3) Julie Mobayed, Nurse Reviewer, WVMI testified that the basis of the denial of the procedure was that InterQual Criteria was not met. Testimony revealed that an Electromyography (EMG) or Nerve Conduction Study (NCS) were not documented as part of the prior authorization. Testimony further revealed that lack of a conservative treatment, such as treatment with a splint and activity modification for greater than six weeks, were not documented as part of the authorization request. Upon the Nurse Reviewer's denial, the request was reviewed by the Physician Reviewer. The Physician Reviewer denied the request based on a lack of conservative treatment.
- 4) According to the InterQual SmartSheet, one of the following indicators must be met for the Claimant to be approved for the procedure:
 - Trigger finger/thumb
 - Continued flexion contracture of finger after RX
- 5) The Claimant stated that she was undergoing physical therapy of her hand and fingers until she had exhausted her allotted amounts of therapy sessions under the Medicaid program. The Claimant submitted Exhibit D-4, information from Tri State Hand and Occupational Therapy, Inc. as part of the hearing record. The Nurse Reviewer testified that this information was not submitted as part of any reconsideration and not considered during the evaluation process.
- 6) Bureau of Medical Services Practitioners Manual Chapter 519.20.1 documents:

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 listing in Attachment 17, along with the PA form that may be utilized.
- 7) Bureau of Medical Services Practitioners Manual Chapter 519 Attachment 17 lists the following surgeries that require prior authorizations:

26055-Incise finger tendon sheath

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's physician submitted a prior authorization request, in which the Claimant did not meet any of the indications listed on the InterQual SmartSheets. In order to be approved for the outpatient surgery for the left cubital tunnel release the Claimant's physician needed to submit documentation of an EMG/NCS or document that the Claimant's symptoms continued after completion of conservative treatment methods.
- 2) Testimony from the Claimant revealed that she had completed physical therapy but this documentation was not submitted as part of her medical records during the evaluation or reconsideration process to West Virginia Medical Institute.
- 3) The documentation provided by the Claimant's physician was insufficient for WVMI to make a determination of medical necessity for the procedure of the left cubital tunnel release; therefore the Department was correct in its denial of the prior authorization for the requested services.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department to deny prior authorization of outpatient services for the Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of December 2009.

Eric L. Phillips
State Hearing Officer