



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

April 30, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 2, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to deny inpatient surgery.

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. (Hospital Services Manual Chapter 510, §510.5.2)

Information submitted at your hearing revealed that medical necessity was not established for the surgery requested.

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
Lorna Harris, Department Representative
-----, WVM

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

-----,

Claimant,

v.

Action Number: 08-BOR-2674

**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 April 30, 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 April 2, 2009 on a timely appeal, filed January 2, 2009.

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

-----RN, Bureau for Medical Services

-----, RN, West Virginia Medical Institute

-----, 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. QUESTION TO BE DECIDED:

The question to be decided is whether the Department is correct in denying a request for Medicaid coverage for inpatient surgery.

V. APPLICABLE POLICY:

Hospital Services Manual Chapter 510, §510.5.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hospital Services Manual Chapter 510, §510.5.2
- D-2 Information received from [REDACTED] DO; InterQual – 2008 – Procedures Criteria for Antireflux Surgery/Hiatal Hernia Repair, Laparoscopic/Open
- D-3 Notice of Denial Determination dated November 17, 2008

VII. FINDINGS OF FACT:

- 1) On October 15, 2008, the Claimant's physician submitted a request to the Department for prior approval for inpatient surgery for the Claimant (Exhibit D-2). Testimony from the Department confirmed that the surgery requested was a conversion of a Nissen fundoplication to a Toupet fundoplication, or a hiatal hernia repair. The WVMI nurse testified that there is no InterQual criteria for this conversion procedure and that without InterQual criteria, the request must be submitted for physician review. Upon physician review, and a requested reconsideration evaluated by a different physician, the surgery request was denied.
- 2) Notice of denial was sent to the Claimant on or about November 17, 2008 (Exhibit D-3). The notice provided the reason for denial as follows:

Acute Inpatient – Documentation provided does not indicate medical necessity – specifically:

There was not enough clinical information provided to approve the requested surgical procedure. The present Nissen repair was successful. No manometry reports were documented. There was no description of the type of dysphagia the patient was experiencing.

- 3) The West Virginia Bureau for Medical Services Hospital Services Manual Chapter 510, §510.5.2, states:

510.5.2 Inpatient Non-Covered Services (Exclusions)

The following inpatient services are excluded from coverage by the West Virginia Medicaid Program:

1. Admissions which are not authorized by the Bureau's utilization management contractor in accordance with Medicaid Program Policy in effect as of the date of service.
 2. Admissions other than emergency to out-of-state facilities for services which are available in-state or in border area facilities
 3. Admissions for experimental or investigational procedures
 4. Admissions and/or continued stays which are strictly for patient convenience and not related to the care and treatment of a patient
 5. Inpatient psychiatric or medical rehabilitation facility admissions of individuals age 21 or over
 6. Inpatient admission for services which could be performed in an outpatient setting
- 4) The Claimant testified that she needs the surgery to help with the acid reflux, pain, and fullness she feels where her esophagus meets her stomach. She indicates that sometimes she has to induce vomiting to remove the blocked food. She is concerned that the stomach acid coming up into her mouth is hurting her teeth and gums. She has changed her diet to primarily liquids, soups, and pudding. Upon questioning from the Department, she indicated that she was provided education about dietary and behavioral changes to help reduce her acid reflux.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that prior authorization is required for the proposed surgery and that medical necessity must be established. The WVMI nurse did not have InterQual criteria to evaluate the procedure, so it was forwarded for physician review. Upon review and reconsideration, the Department determined that the clinical findings did not support medical necessity for the requested surgery. Although the Claimant's testimony did clearly present her reasons for wanting the surgery, medical necessity was not shown.
- 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 inpatient surgery.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of April, 2009.

**Todd Thornton
State Hearing Officer**