



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

Martha Yeager Walker
Secretary

May 21, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 12, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization for outpatient surgery.

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. Some of these regulations state as follows: Medical necessity of certain outpatient surgical procedures be must determined for prior authorization to be approved (Bureau of Medical Services Hospital Manual § 810).

The medical documentation submitted at your hearing was insufficient to establish the medical necessity of a surgical hysteroscopy with endometrial ablation

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to deny prior authorization for outpatient surgery.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Bureau of Medical Services

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

-----,

Claimant,

v.

Action Number: 09-BOR-946

**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 May 12, 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 May 12, 2009 on a timely appeal, filed March 25, 2009.

II. PROGRAM PURPOSE:

The Program entitled Medicaid is set up cooperatively between the Federal and State governments and 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

-----, Claimant's Husband

Virginia Evans, Bureau of Medical Services
-----, RN, West Virginia Medical Institute

All parties participated by phone.

Presiding at the Hearing was Kristi Logan, 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 or not the Department's decision to deny prior authorization of outpatient surgery for Claimant was correct.

V. APPLICABLE POLICY:

Bureau of Medical Services Hospital Manual § 510
Bureau of Medical Services Practitioner Manual §519.20.1 and Attachment 17

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- A-1 Bureau of Medical Services Practitioner Manual § 519.20.1 and Attachment 17
- A-2 InterQual Criteria for Hysteroscopy, Operative
- B-1 Prior Authorization Request Form dated March 10, 2009
- C-1 Denial Notification Letter dated March 10, 2009 to Claimant and Dr. -----
- D-1 Prior Authorization Request Form dated March 25, 2009 and Medical Records from Dr. -----
- E-1 Notice of Reconsideration dated March 26, 2009

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for prior authorization for a Dilation and Curettage (D&C) and a surgical hysteroscopy with endometrial ablation was submitted to the West Virginia Medical Institute (WVMI) for approval by Dr. ----- on March 10, 2009 (B-1). A denial notification letter dated March 10, 2009 was issued and read in part (C-1):

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

The information provided did not meet the indications for this procedure. There was no documentation of physical examination findings, Pap smear report, TSH

[thyroid stimulating hormone], endometrial biopsy, or duration of OCP's [oral contraceptive pills].

- 2) Additional medical information was submitted by Dr. ----- to WVMi for reconsideration on March 25, 2009 (D-1). A notification letter dated March 26, 2009 was issued and read in part (E-1):

WVMi received your request for reconsideration of the initial denial of authorization for the above listed patient. After due consideration of all relevant factors including documentation in the medical record and any additional information provided, WVMi upheld the initial denial.

After reviewing the information provided, it was determined that the indicators for the hysteroscopy endometrial ablation and biopsy were not met. Based on the documentation submitted, the records received were from 2007 only a Pap smear results from 2009 was the only record of 2009 [sic]. The reviewing physician indicated that there was lack of current documentation in the records submitted and that due to the patient's apparent endocrine problem would recommend conservative treatment with oral contraceptives.

- 3) -----, nurse reviewer for WVMi, testified that the reason for the denial of the hysteroscopy was that InterQual Criteria was not met. Ms. Lopez compared the information provided on the authorization request form to the InterQual SmartSheet for an operative hysteroscopy (A-2). The clinical reasons for requesting the hysteroscopy as indicated on the authorization request form was breakthrough bleeding and heavy menses [menstrual cycles] for two (2) years (B-1).
- 4) According to the InterQual SmartSheet, the following indicators must be met in order for Claimant to be approved (A-2):

400 Endometrial ablation for DUB [dysfunctional uterine bleeding] in premenopausal women (ALL)
410 Abnormal bleeding for more than 3 cycles
420 Vaginal and cervix normal by PE [physical exam]
430 Thyroid disease excluded by Hx/PE/testing [history]
440 PAP smear normal within last year
450 Pregnancy excluded
451 HCG negative [human chorionic gonadotropin]
452 Sterilization by Hx
453 Patient not sexually active by Hx
460 Continued bleeding after Rx [prescription] (ONE)
461 Age younger than 35 (BOTH)
 1 – Progestin OCP for 3 consecutive cycles
 2 – Findings (ONE)
 A) Interferes with ADLs [activities of daily living]
 B) HCT [hematocrit] less than 27 unresponsive to iron Rx for more than 12 weeks
462 Age older than 35 (ALL)

- 1 – Endometrium normal within last year (ONE)
 - A) By endometrial Bx (biopsy)
 - B) By hysteroscopy with D&C
- 2 – Progestin/OCP for 3 consecutive cycles
- 3 – Findings (ONE)
 - A) Interferes with ADLs
 - B) HCT less than 27 unresponsive to iron Rx for more than 12 weeks

- 5) Ms. Lopez testified that the information submitted by Dr. ----- did not meet all the criteria required under the 400 tier for dysfunctional uterine bleeding. The report of Claimant's Pap smear of 2009 was the only current medical information submitted. The rest of Claimant's records were from 2007. There was no information regarding the results of a physical exam, thyroid testing or conservative treatments.

Ms. Lopez stated that when she was unable to make a determination based on the medical records provided, the authorization request was sent to a physician reviewer. The request was denied by two (2) different physician reviewers.

- 6) Claimant testified that she has had ongoing gynecological problems since 1991. She has extremely heavy bleeding that worsens with activity. She uses 2-3 pads at a time and will still have leakage. There is also tissue in her blood. Claimant stated she has been taking norethendrone since March 2009 with no relief.

Claimant stated a physical exam was performed by Dr. ----- at the same time the Pap smear was taken. She also had a physical exam prior to a CT scan of her abdomen recently. Claimant has had a tubal ligation and is unable to get pregnant. She was told by a physician in Morgantown that she did not have an endocrine disorder even though her lab work shows that she does.

Claimant contends that there is an abundance of evidence in her medical records to support the necessity of the D&C and hysteroscopy.

- 7) Bureau of Medical Services Hospital Manual § 510 states:

Inpatient and outpatient hospital services, including tests furnished by participating hospitals, are covered only when ordered by a licensed medical practitioner for the care and treatment indicated in the management of illness, injury, or maternity care, or for the purpose of determining existence of an illness or disease. All Medicaid covered items and services must be medically necessary. The physician's order and appropriate documentation of medical necessity must be on file in the patient's record. The fact that a provider has prescribed, recommended, or approved medical care, goods, or a service, does not in itself make such care, goods or services medically necessary or a covered service.

There must be documentation in the patient's record for all services billed to the West Virginia Medicaid Program, which substantiates the medical necessity for covered items or services. For Medicaid covered services or items requiring

prior authorizations, the physician's order and documentation must be submitted prior to the provision of the service.

- 8) Bureau of Medical Services Practitioner 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 review contractor are listing in Attachment 17, along with the PA (prior authorization) form that may be utilized.

- 9) Bureau of Medical Services Practitioner Manual § 519 Attachment 17 states surgeries requiring prior authorization:

58558 hysteroscopy, surgical
58563 with endometrial ablation

VIII. CONCLUSIONS OF LAW:

- 1) With the information provided by Dr. ----, Claimant was only able to meet three (3) out of the six (6) indicators as shown on the InterQual SmartSheet for the authorization of a D&C and surgical hysteroscopy to be approved: 410 abnormal bleeding for more than three (3) cycles, 440 normal Pap smear within the last year and 450 pregnancy excluded. The information submitted failed to document findings of a physical examination of the vagina and cervix (420), results for testing for thyroid disease (430) and continued bleeding after the use of progestin oral contraceptive pills for three (3) consecutive cycles (460). All six (6) indicators were required to be met.
- 2) Although testimony from Claimant indicated that a physical examination had been performed when the Pap smear was taken and she was currently taking progestin oral contraceptive pills, this information was not documented in her medical records as required by policy.
- 3) The documentation provided was insufficient for WVMi to make a determination of medical necessity of the D&C and surgical hysteroscopy with endometrial ablation.

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 Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21st Day of May, 2009.

Kristi Logan
State Hearing Officer