



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. 3rd Avenue
Williamson, WV 25661

Joe Manchin III
Governor

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

September 13, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 3, 2010. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid authorization for a tarsal tunnel release of the right ankle and a cyst removal on the right heel.

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 that prior authorization (PA) is required on all outpatient surgeries. Failure to obtain prior authorization will result in denial of the service. The 2008 – Procedures Criteria found on InterQual Smart Sheet is used to determine the medical appropriateness of health care services. If the individual fails to meet the clinical indications criteria during the nurse's review, the request is forwarded to a physician reviewer to determine medical appropriateness. (WVDHHR Medicaid Policy Manual, Chapter 519, & InterQual Smart Sheets 2008 – Procedures Criteria)

The information presented at your hearing reveals that prior authorization for payment of a tarsal tunnel release and a cyst removal was not approved because the information your physician submitted does not meet the InterQual initial clinical indications criteria and there was insufficient documentation for the physician reviewer to determine medical appropriateness.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny Medicaid authorization for a tarsal tunnel release of the right ankle and cyst removal of the right heel.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Lorna Harris, WV Bureau of Medical Services

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

-----,
Claimant

v.

Action Number(s): 10-BOR-1047

**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 September 13, 2010 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 hearing was held on June 3, 2010 on a timely appeal filed March 22, 2010.

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 Witness

Virginia Evans, DHHR Specialist, Bureau for Medical Services (BMS)
Sharon Lopez, RN, West Virginia Medical Institute (WVMI)

Presiding at the hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing Officer placed all participants under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED

The question to be decided is whether the Department was correct in its decision to deny Medicaid payment for a tarsal tunnel release of the right ankle and a cyst removal on the right heel for Claimant.

V. APPLICABLE POLICY:

WVDHHR Medicaid Policy Manual, Chapter 519 and InterQual Smart Sheets 2008 – Procedures Criteria.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV DHHR Medicaid Hospital Services Provider Manual, Section 519.20.1 and Attachment 17
- D-2 InterQual Smart Sheets – Tibial Nerve Decompression
- D-3 WVMi Medicaid Outpatient Services Authorization Request Form and additional documentation, dated January 15, 2010
- D-4 Notices of Denial from WV Medical Institute (WVMi) dated January 19, 2010

VII. FINDINGS OF FACT:

- 1) Claimant's physician, [REDACTED] D.P.M., submitted a Medicaid Outpatient Services Authorization Request form to WVMi requesting authorization for procedure #28035, decompression of tibia nerve, for Claimant on January 15, 2010. (Exhibit D-3.) On January 19, 2010, WVMi issued a denial to Claimant and her physician for this service. (Exhibit D-4.) Claimant requested a hearing on this denial on March 22, 2010.
- 2) WV DHHR Medicaid Hospital Services Provider Manual Chapter 519.20.1 (Exhibit D-1) states in part:

Certain surgeries performed in place of service 22 (Outpatient Hospital) and 24 [REDACTED] Center) will require prior authorization, effective February 15, 2006. The selected surgeries that require prior authorization through the BMS review contractor are [listed] in Attachment 17, along with the PA form that may be utilized.

WV DHHR Medicaid Hospital Services Provider Manual Chapter 519, Attachment 17 lists the selected surgical procedures that require prior authorization. Item #28035 is listed as "Decompression of tibia nerve."

- 3) Based on information taken from the physician's Medicaid Authorization Request Form, WVMi's authorization request reviewer completed a procedures criteria screening form, known as InterQual Smart Sheets (Exhibit D-2). According to these sheets, a physician requesting this procedure must demonstrate the following indications:

- a) patient must have one of the following symptoms – pain or dysesthesia (painful or burning sensations) of the planar foot, or paresthesias (tickling or pricking sensation or numbness) of the sole of her foot;
 - b) patient must have one of the following findings – positive Tinel’s sign (a test to detect irritated nerves) or sensory impairment over medial plantar or lateral plantar branches of the tibial nerve;
 - c) patient must have continued pain after all of the following conservative treatments have been documented: non-steroidal anti-inflammatory drugs (NSAIDs) prescribed for at least four weeks unless contraindicated, an orthopedic shoe with a heel wedge and arch support for at least six months, and corticosteroid injections which are either ineffective or contraindicated.
- 4) According to the Notice of Denial for Outpatient Services (Exhibit D-4), the requested procedure was denied for the following reasons:
- “The information provided did not meet the indications for these procedures. There was no documentation submitted regarding any conservative management attempted.”
- 5) Department’s witness testified that none of the conservative treatments required in item 3-c above were document. She stated that there was no documentation that Claimant’s physician prescribed NSAIDs or that they were contraindicated, that her physician prescribed orthopedic shoes, or that her physician attempted corticosteroid injections or that they were contraindicated. Department’s witness testified that no prior authorization is required for the removal of a cyst.
- 6) Claimant testified that she needed this surgery in order to walk. She reported that she had been having many difficulties because of the pain in her leg and lower back. Her witness testified that no one understands the pain and swelling claimant experiences. The witness stated that Claimant is limited to the bedroom and bathroom of her home due to her leg pain. Neither Claimant nor her witness offered substantial testimony or evidence to refute Department’s decision to deny payment for the procedure.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires pre-authorization of Medicaid coverage for outpatient procedures such as a decompression of the tibia nerve. Policy does not require pre-authorization for the removal of a cyst.
- 2) The claimant’s physician requested pre-authorization for an outpatient arthroscopy on January 15, 2010.
- 3) Based on the physician’s pre-authorization request, nursing staff at the WVMJ completed InterQual Smart Sheets to evaluate the merits of the request.

- 4) The physician's request form and attached medical records failed to meet the InterQual Smart Sheets' requirements for the outpatient decompression of the tibia nerve. The request form and attached records did not document that any conservative treatments were attempted, including prescribing (or contraindicating) NSAIDs, orthopedic shoes or corticosteroid injections.
- 6) The medical evidence submitted by Claimant's physician failed to meet prior authorization criteria; therefore, the Department acted correctly in denying Claimant's request of payment for an outpatient decompression of the tibia nerve.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny Claimant's physician's request for an outpatient decompression of the tibia nerve.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of September 2010.

Stephen M. Baisden
State Hearing Officer