



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

Joe Manchin III  
Governor

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

September 16, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 16, 2010. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid authorization for a Magnetic Resonance Imaging (MRI) test of the cervical and thoracic spine.

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 radiological services that include an MRI. Failure to obtain prior authorization will result in denial of the service. The 2008 – Imaging 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 510, and InterQual Smart Sheets 2008 – Imaging Criteria)

The information presented at your hearing reveals that prior authorization for payment of a MRI of your cervical and thoracic spine 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 an MRI.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review  
Amy Workman, WV Bureau of Medical Service

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

-----,  
**Claimant**

**v.**

**Action Number(s): 10-BOR-1059**

**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 16, 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 16, 2010 on a timely appeal filed March 23, 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 spouse

Virginia Evans, Bureau for Medical Services, Department's Representative  
Kathy Montali, RN, West Virginia Medical Institute, Department's Witness

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

The hearing convened at the Mingo County Office of the WV DHHR. Department representatives participated via telephone conference call.

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 Magnetic Resonance Imaging (MRI) examination of the Claimant's cervical and thoracic spine.

#### **V. APPLICABLE POLICY:**

WVDHHR Medicaid Policy Manual, Chapter 510, Chapter 528 and InterQual Smart Sheets 2008 - Imaging Criteria.

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 WV DHHR Medicaid Hospital Services Provider Manual Chapter 528
- D-2 WVMi Medicaid Imaging Authorization Request form from [REDACTED] MD, dated March 9, 2010.
- D-3 InterQual Smart Sheets – 2008 Imaging Criteria
- D-4 Notices of Denial from WV Medical Institute (WVMi) dated March 10, 2010
- D-5 Information submitted by Claimant to WVMi, MRI results report from 1995

##### **Claimant's Exhibits**

- C-1 Letter from Claimant to WV DHHR demanding that all of his medical information be sealed
- C-2 [REDACTED] *Daily News*, May 28, 2010, article entitled "[REDACTED] doctor to serve one year in prison for health care fraud"
- C-3 WV Board of Medicine Licensee Detail concerning [REDACTED] MD
- C-4 MRI of cervical spine results report dated April 27, 2010

#### **VII. FINDINGS OF FACT:**

- 1) WV DHHR Medicaid Hospital Services Provider Manual Chapter 512.14 states in part:

Effective 10/01/05, prior authorization will be required on all outpatient radiological services that include Computerized Tomography (CT), Magnetic Resonance Angiography (MRA), Magnetic Resonance Imaging (MRI), Positron Emission Tomography Scans (PET), and Magnetic Resonance Cholangiopancreatography (MRCP). Prior authorization requirements governing the provisions of all West Virginia Medicaid services will apply pursuant to Chapter 300 General Provider Participation Requirements, provider manual.

- 2) WV DHHR Medicaid Hospital Services Provider Manual Chapter 528.7 (Exhibit D-1) states in part:

For radiology services requiring prior authorization for medical necessity by the Utilization Management Contractor (UMC), the referring/treating provider must submit the appropriate CPT code with clinical documentation and any other pertinent information to be used for clinical justification of services by the UMC. The information must be provided to the UMC, and the prior authorization granted, prior to services being rendered. Prior authorization requests for radiological services must be submitted within the timeframe required by the UMC.

- 3) WV DHHR Medicaid Hospital Services Provider Manual Chapter 320. 3 states in part:

Various in-state and out-of-state services (for example, but not limited to, hospital inpatient care, nursing facility services, etc.) covered by the WV Medicaid Program must be approved in advance before payment can be made. Pre-service review and prior authorization may be required to initiate treatment or extend treatment beyond the amount, scope, or duration that is routinely allowed or was originally approved. It is the responsibility of the provider of the service to secure prior approval before rendering the service.

...

The provider must submit written documentation demonstrating the medical necessity and appropriateness of the proposed treatment.

- 4) The Claimant's physician, [REDACTED] MD, submitted a Medicaid Authorization Request Form (Exhibit D-2) to the West Virginia Medical Institute (WVMI) on March 9, 2010, requesting pre-authorization for imaging services, an MRI of the cervical and thoracic spine. Item B on the request form, labeled "Imaging Study Requested," asks the medical professional to enter the name and Current Procedural Terminology (CPT) code for the requested imaging study. The person who completed this form has entered "MRI of Cervical and Thoracic Spine" with CPT code numbers 72142 and 72147. Items D (labeled "Clinical Reasons for Study"), E (labeled "Previous Relative Diagnostic Studies") and F (labeled "Related Medications, Treatments and Therapies") on the form all stated, "See attached." Attached to the Authorization Request Form was additional information from Dr. [REDACTED] office. The section of the attached information labeled "History of Present Illness" presents information mostly related to Claimant's COPD (chronic obstructive pulmonary disease.) The information includes an office visit note written on March 8, 2010, which reported Claimant came into Dr. [REDACTED] office complaining of pain under his left arm, chest and back. The note also stated that Claimant submitted an MRI from 1995 which showed an osteophyte (or bone spur) that was impinging on vertebrae C4 and C5. The section of the attachment labeled "Medication List" documented eleven (11) medications prescribed to Claimant, none of

which were non-steroidal anti-inflammatory drugs (or NSAIDs.) The section of the attachment labeled “Review of Systems” reports that Claimant denied experiencing tingling or numbness and denied having joint pain. The section of the attachment labeled “Physical Examination” provides no information regarding any physical findings of the cervical or thoracic spine.

- 5) Based on the information from the physician’s Medicaid Authorization Request Form and additional information, the WVMI reviewer completed an imaging criteria screening form, known as InterQual Smart Sheets. (Exhibit D-3.) The nurse reviewer found that there was insufficient information to select an indication from which to evaluate the request. There was no indication of the onset date of Claimant’s medical condition. The request did not include documentation of any of the possible indications for which an MRI may be considered for approval. For both MRI studies requested, there was no indication of the results of conservative care for Claimant, either by NSAIDs or activity modification. Claimant’s Pre-Authorization request was forwarded to WVMI’s physician reviewer, who denied the request for services.
- 6) WVMI sent Notices of Denial (Exhibit D-4) to the Claimant, his physician and Boone Memorial Hospital on March 5, 2010. The notices state in pertinent part:

Reason for Denial:

**MRI OF THE CERVICAL AND THORACIC SPINE**

There were no physical or neurological examination findings and no conservative treatment durations and outcomes noted of any NSAID therapy or activity modifications . . . The information submitted did not meet the clinical indications of the InterQual criteria.

- 7) Department’s representative testified that after the denial notices were sent, the WV Medical Institute received additional information from Claimant, in the form of a report of the results of an MRI done in 1995. (Exhibit D-5.) She added that this information was not considered for two reasons: 1) it was submitted by Claimant and not his physician; 2) the information was more than fifteen years old.
- 8) Department’s witness testified that there was nothing on the Pre-Authorization Request or the attached information for the nurse reviewer to determine which indication the MRI was intended to address. She stated that without this indication, the nurse reviewer was unable to evaluate the request or determine whether or not the requesting physician provided adequate information. She added that the documentation did not mention the thoracic spine at all.
- 9) Claimant stated that the policies of the WV Bureau of Medical Services and the WV Medical Institute were “discriminatory” against handicapped individuals. He submitted into evidence various documents which were not relevant to the matter under appeal. He submitted a report of an MRI of his cervical spine that was done on April 27, 2010. He stated that this MRI request was accepted by WVMI and that the WVMI was wrong to deny the initial request for an MRI of the cervical and thoracic spine. He provided no substantive rebuttal to the Department’s testimony or evidence.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy requires pre-authorization of Medicaid coverage for MRI examinations.
- 2) Claimant's physician requested pre-authorization for an MRI examination on March 9, 2010.
- 3) The nurse reviewer at the WVMI completed InterQual Smart Sheets to evaluate the merits of the request, and determined that there was insufficient medical information for her to approve the MRI. She forwarded the request to WVMI's physician reviewer, who issued a denial of the requested imaging service.
- 4) The physician's pre-authorization request failed to provide indications for which the MRI was intended to address. It did not document the use of conservative treatments such as activity modification or NSAIDs. It did not document the date of onset of the medical situation for which Claimant's physician requested the MRI.
- 5) The medical evidence submitted by the Claimant's physician failed to meet prior authorization criteria; therefore, the Department acted correctly in denying the Claimant's request for Medicaid payment of an MRI examination of the cervical and thoracic spine.

## **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 MRI of the cervical and thoracic spine.

## **X. RIGHT OF APPEAL:**

See Attachment

## **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16th Day of September, 2010.**

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**Stephen M. Baisden**  
**State Hearing Officer**