



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1736

Joe Manchin III
Governor

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

October 18, 2010

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 5, 2010. Your hearing request was based on the Department of Health and Human Resources' denial of your prior authorization request for additional physical therapy services.

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 the Medicaid Services is based on current policy and regulations. These regulations provide that West Virginia Medicaid does not authorize physical or occupational therapy sessions exceeding 20 sessions per calendar year for treatment of a chronic condition. (WVDHHR Physical/Occupation Therapy Manual Chapter 515.3 and 515.6.1)

The information which was submitted at your hearing revealed that your request for payment of physical therapy services met the definition of a chronic condition and could not be authorized.

It is the decision of the State Hearing Officer to Uphold the action of the Department in denying Medicaid authorization for additional physical therapy sessions.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Amy Workman, BMS

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

-----,

Claimant,

v.

Action Number: 10-BOR-1757

**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 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 October 5, 2010 on a timely appeal, filed August 6, 2010.

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

Virginia Evans, Program Manager Bureau for Medical Services

Jenny Craft, RN Nurse Reviewer, West Virginia Medical Institute

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 Claimant's prior authorization for additional physical therapy sessions.

V. APPLICABLE POLICY:

WVDHHR Bureau for Medical Services Physical/Occupation Therapy Manual Chapter 515.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVDHHR Bureau for Medical Services Physical and Occupational Therapy Manual, Section 515.3
- D-2 West Virginia Medical Institute Screening Criteria for Physical Therapy
- D-3 West Virginia Medical Institute Physical/Occupational Therapy Prior Authorization Request Form from [REDACTED] M.D. and information from [REDACTED] P.T.
- D-4 Notice of Denial for Physical Therapy Services dated July 29, 2010

VII. FINDINGS OF FACT:

- 1) On July 19, 2010, the Claimant's physician [REDACTED] M.D. submitted Exhibit D-3, Physical/Occupation Therapy Prior Authorization Request Form to the West Virginia Medical Institute (WVMI) requesting pre-authorization for eight additional physical therapy services for the Claimant for a timeframe of July 26, 2010 through August 6, 2010.
- 2) On July 29, 2010, WVMI issued Exhibit D-4, Notice of Denial for Physical Therapy Services to the Claimant and his physician. This exhibit documents in pertinent part:

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

Reason for Denial: Documentation provided does not indicate medical necessity-specifically:

The request for continued physical therapy for 8 visits from 7/27/2010 to 08/07/2010 was denied due to not meeting WV Medicaid criteria. The documentation provided reflected a condition that is chronic. A chronic condition is defined as a condition lasting 6 months or greater. Per documentation submitted, the patient has had lower back pain since 1986.

Additionally, it should be noted that the physician's notice of denial documents that a reconsideration of the determination could be made if a written request and supporting documentation was sent to WVMI within sixty days of the receipt of the notice.

- 3) Jenny Craft, RN, WVMi reviewed Exhibit D-3, to determine the Claimant's eligibility for prior authorization of additional physical therapy sessions. Ms. Craft stated that Exhibit D-3 lists the dates and history of the Claimant's injuries as "1986 lower back injury, 1992 motor vehicle accident, neck and shoulder pain, and 2009 backward fall, reinjured lower back and S.I. joints". Additionally, this exhibit documents the Claimant's diagnosis as hip pain with neck and shoulder pain. The Claimant's physician requested 8 physical therapy treatments for the timeframe of July 26, 2010 to August 6, 2010.

Ms. Craft indicated that the Claimant's injury was considered a chronic condition due to the onset of the injury occurring in 1986, which was more than six months ago. Ms. Craft testified that the Claimant's information was submitted to the WVMi Physician Reviewer for further examination. The Physician Reviewer reviewed the request along with information from [REDACTED] P.T., which indicated that the Claimant has a diagnosis of right hip pain, neck pain and shoulder pain. Additionally, the information from the physical therapist notes that the patient was "first injured in 1986 when she was working and tripped over a wire resulting in a lower back injury" and that "she [Claimant] did state that she has been working hard on her home exercise program and feels that it is beneficial."

Ms. Craft testified that the Physician Reviewer denied the request as the Claimant's injuries were considered a chronic condition, as the Claimant had been placed on a home exercise program due to lower back injuries sustained in 1986.

- 4) The Claimant testified that her injuries from 1986 occurred on the left side of her back and her request for additional physical therapy services is for injuries to the right side of her back which occurred in 2009. The Claimant indicated that her home exercise program has helped her with her back problems but she seeks additional physical therapy sessions to expand her home exercise program to aide in her recovery.
- 5) WVDHHR Physical/Occupation Therapy Manual Chapter 515.3 documents in part:

"Under the direction of" means that the therapist is on the premises when the services are rendered and is available for any emergency or question that may arise. As circumstances permit, the therapist must be involved in patient education, including but not limited to, teaching the patient exercise, manipulation, and how to use devices for their own rehabilitations.

Continuous progress/improvement must be documented for coverage of therapy. The member must show compliance with therapy and the home regimen plan. Continuation of services may be considered, when an exacerbated episode of a chronic condition is clearly documented; otherwise chronic conditions are non-covered.

- 6) WVMi Physical and Occupation Therapy Screening Criteria documents in pertinent part:

Exclusions:

Outpatient physical therapy sessions exceeding 20 sessions per calendar year (January-December 31). Chronic conditions would include but, are not limited

to arthritis, cerebral palsy, and developmental delay. Chronic conditions is defined as a condition lasting six months or greater.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that Medicaid does not cover occupational and physical therapy services in excess of 20 visits for chronic conditions. Policy defines a chronic condition as a condition which lasts six months or greater and such conditions include arthritis, cerebral palsy, and developmental delay.
- 2) The Claimant's physician requested pre-authorization for Medicaid coverage of physical/occupational therapy services for the Claimant in excess of the 20 covered visits per year.
- 3) Evidence indicates that the Claimant suffers from low back pain as a result of injuries sustained in 1986 and 2009. WVMi denied the Claimant's request for additional therapy services as she suffers from a chronic condition that is excluded from coverage that has continued for more than six months.
- 4) Evidence did not support the reasoning for physical therapy for any other condition other than the Claimant's injuries from 1986 and 2009, a chronic condition excluded under policy; therefore, the Department was correct in its decision to deny prior authorization of physical therapy services.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department to deny the Claimant's pre-authorization request for additional physical therapy sessions.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of October 2010.

Eric L. Phillips
State Hearing Officer