



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

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

October 27, 2010

-----for -----

Dear-----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 20, 2010. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid authorization for physical therapy.

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 as follows: West Virginia Medicaid does not authorize physical or occupational therapy sessions exceeding 20 per calendar year for treatment of a chronic condition. (WVDHHR Physical/Occupational Therapy Manual Sections 515.3 and 515.6)

Evidence presented during your hearing reveals that your request for payment of therapy services did not meet eligibility criteria and could not be authorized.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny Medicaid authorization for physical therapy.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

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

-----,

Claimant,

v.

Action Number(s): 10-BOR-1920

**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 20, 2010 on a timely appeal filed September 7, 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's mother
Virginia Evans, DHHR Specialist, Bureau for Medical Services
Jenny Craft, RN, Case Manager, West Virginia Medical Institute

Presiding at the hearing was Pamela L. Hinzman, 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 was correct in its decision to deny Medicaid authorization for physical therapy.

V. APPLICABLE POLICY:

WVDHHR Physical/Occupational Therapy Manual Sections 515.3 and 515.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVDHHR Physical/Occupational Therapy Manual Sections 515.3 and 515.6
- D-2 West Virginia Medical Institute Screening Criteria
- D-3 Information from Dr. [REDACTED] and [REDACTED] Physical Therapist
- D-4 Notices of Denial Determination from West Virginia Medical Institute dated August 4, 2010
- D-5 Reconsideration request from Dr. [REDACTED] and [REDACTED] Physical Therapist
- D-6 Physician Notice of Preadmission Reconsidered Determination from West Virginia Medical Institute dated August 25, 2010

VII. FINDINGS OF FACT:

- 1) The Claimant's physician, Dr. [REDACTED] submitted Medicaid Authorization Request Forms (D-3) to West Virginia Medical Institute (WVMI) on August 2, 2010 requesting pre-authorization for continued physical therapy services.
- 2) WVMI sent Notices of Denial (D-4) to the Claimant, her physician and physical therapist on August 4, 2010. The notices state:

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

The request for continued physical therapy for 20 visits from 07302010 to 10022010 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 a congenital limb anomaly. In addition, this is a duplication of therapy services as patient is also being seen by the Birth to Three program.

- 3) The Claimant's physician and physical therapist submitted a request for reconsideration (D-5) to WVMI, however the request was denied. Exhibit D-6, a Physician Notice of Preadmission Reconsidered Determination, states:

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.

Upon physician review of the additional information provided through the reconsideration process, it was noted that there was insufficient medical information documented for continuation of physical therapy. Per documentation submitted, the patient was at a maintenance level.

- 4) The Department's witnesses indicated that Medicaid can provide payment for 20 physical therapy sessions annually, however requests for continued therapy must meet prior authorization criteria. They indicated that additional therapy cannot be authorized for the treatment of chronic conditions, which are defined as conditions lasting six (6) or more months.
- 5) The Claimant's mother testified that the Claimant requires therapy so that her condition can continue to improve. She indicated that her daughter, age 1, receives very limited therapy services from the Birth to Three Program and will not have access to physical therapy equipment if she is not approved for additional services.
- 6) According to Exhibit D-3, the Claimant is a pre-term infant who has a congenital limb anomaly and a contracture of the left leg. This documentation also indicates that the Claimant has developmental delays, right foot hypersensitivity and right upper extremity weakness with tremors.
- 7) WVDHHR Physical/Occupational Therapy Manual Chapter 515.3 (D-1) states, in pertinent part:

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 rehabilitation...

Continuation of services may be considered, when an exacerbated episode of a chronic condition is clearly documented; otherwise chronic conditions are non-covered...

IMPORTANT: The fact that a provider prescribes, recommends, or approves medical care does not in itself make the care medically necessary or a covered service.

8) WVDHHR Physical/Occupational Therapy Manual Chapter 515.6 (D-1) states, in part:

West Virginia Medicaid does not cover the following occupational/physical therapy services...

- Occupational/physical therapy services in excess of 20 visits provided for chronic conditions, such as arthritis, cerebral palsy, and developmental delay.

9) WVMH Physical and Occupational Therapy Screening Criteria (D-2) states that outpatient physical therapy sessions exceeding 20 sessions per calendar year (January- December 31) are excluded from payment when a chronic condition exists. A chronic condition is defined as a condition lasting six months or greater.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires pre-authorization of Medicaid coverage for physical therapy sessions in excess of 20 per calendar year. Policy stipulates that additional therapy services for chronic conditions are not covered by West Virginia Medicaid.
- 2) The Claimant's physician and physical therapist requested pre-authorization for Medicaid coverage of physical therapy for the Claimant in excess of the 20 covered visits per year.
- 3) Evidence indicates that WVMH denied the request because the Claimant suffers from a chronic condition and such conditions are excluded from coverage.
- 4) Whereas medical evidence submitted by the Claimant's physician failed to meet prior authorization criteria, the Department acted correctly in denying the Claimant's request for Medicaid payment of physical therapy services.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny Medicaid authorization for physical therapy services in excess of 20 sessions per year.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of October, 2010.

**Pamela L. Hinzman
State Hearing Officer**