



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

July 6, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 25, 2010. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid authorization for orthotic equipment, a knee brace.

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.

Medicaid regulations state that orthotic and prosthetic devices and appliances provided are considered for reimbursement by WV Medicaid when requested by a prescribing practitioner and determined medically necessary to meet the basic health care needs of the member. This determination of medical necessity utilizes the InterQual Durable Medical Equipment Criteria for lower extremity orthotic devices. (West Virginia Bureau for Medical Services Provider Manual, Chapter 516: Orthotic/Prosthetic Services, §516.3 and §516.5)

The information presented at your hearing reveals that prior authorization for payment of a knee brace 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 H. 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): 09-BOR-2414

**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 July 6, 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 by telephone conference call on May 25, 2010 on a timely appeal filed December 18, 2009.

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

Virginia Evans, WV Bureau for Medical Services, Department's Representative

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 an orthotic device, a knee brace (L1810).

V. APPLICABLE POLICY:

WVDHHR Medicaid Policy Manual, Chapter 516 & InterQual Smart Sheets 2009 – Durable Medical Equipment Criteria.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV DHHR Medicaid Hospital Services Provider Manual Chapter 516, §516.5
- D-3 InterQual Smart Sheets – 2009 Durable Medical Equipment Criteria
- D-2 WVMi Medicaid Durable Medical Equipment / Medical Supplies Authorization Request form from [REDACTED] Medical Supply, [REDACTED] WV, dated December 7, 2009
- D-4 Notices of Denial from WV Medical Institute (WVMi) dated December 11, 2009

VII. FINDINGS OF FACT:

- 1) WV DHHR Medicaid Hospital Services Provider Manual Chapter 516.3 states in part:

Orthotic/prosthetic devices/appliances provided are considered for reimbursement by WV Medicaid when requested by a prescribing practitioner and determined medically necessary to meet the basic health care needs of the member.

- 2) WV DHHR Medicaid Hospital Services Provider Manual Chapter 516.5 (Exhibit D-1) states in part:

For [Orthotics and Prosthetics] services requiring prior authorization review for medical necessity by WVMi, it is the responsibility of the prescribing practitioner to submit the appropriate clinical documentation, i.e., ICD-9 code(s), all

information required on the written prescription . . . and all relevant information.

- 3) On December 7, 2009, Claimant's physician, [REDACTED] M.D. prescribed a knee brace (L1810) for the right and left knee for Claimant. This prescription was submitted to [REDACTED] Medical of [REDACTED] WV. A worker there completed the WVMI Medicaid Durable Medical Equipment (DME) / Medical Supplies Authorization Request Form and sent it to the WV Medical Institute (WVMI) on December 8, 2009. (Exhibit D-3). On the section of the form labeled, "Clinical indication(s) for item(s) requested, the worker has written, "BD Patello-femoral arthritis."
- 4) Based on the information taken from the physician's Medical Supplies Authorization Request Form, the WVMI reviewer completed a durable medical equipment criteria screening form, known as an InterQual Smart Sheet (Exhibit D-2). The InterQual Smart Sheet is a diagnostic tool which assists the nurse reviewer in determining if a physician has provided enough information for a reviewer to approve a particular request. According to the smart sheet for the type of brace Claimant's physician requested, an L1810 knee brace, a request must either indicate whether the device is needed post-injury or post-surgery, or must document knee instability. The request did not indicate if the brace were needed as a result of injury or surgery, and it did not document instability. The reviewer forwarded the request to WVMI's physician reviewer, who issued a denial.
- 5) WVMI sent Notices of Denial (Exhibit D-4) to the Claimant, his physician and the medical supplies provider December 11, 2009. The notices state in pertinent part:

Reason for Denial: Your request for orthotic code L1810 cannot be authorized due to the lack of information required for review.

Is this brace to be applied post surgery or post injury, is it a component of standard post injury / post operative rehabilitation protocol, does the patient have an unstable knee diagnosed by physical exam or imaging, does the patient have a history of knee giving away [sic], and does the knee instability interfere with [activities of daily living]?

On the versions of this Notice that went to the physician and the medical supply company, the Notice includes a paragraph that states as follows:

If you do not agree with this decision you may request a reconsideration of this determination. To exercise this right, a written request and supporting documentation must be submitted to WVMI within 60 days of receipt of this notice. WVMI will complete the reconsideration within 30 working days of the request.

Department's representative testified that as of the date of the hearing, no request for reconsideration had been submitted.

- 6) Claimant's representative testified that his knee problems have been occurring for more than ten years. He stated that a patella knee brace could stop this from happening. He stated that he did not understand why the process of approving orthotic devices was so complicated, and that it was wrong to have someone suffer to get a device that was ordered by a physician. He offered no substantive evidence or testimony to refute the Department's denial of the orthotic device request.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires that it is the responsibility of the prescribing practitioner to submit the appropriate clinical documentation to request pre-authorization of Medicaid coverage for orthotic devices.
- 2) Claimant's physician prescribed knee braces (L1810) for each knee, and a request for these braces were sent to WVMi by [REDACTED] Medical Supply on December 8, 2009.
- 3) The nurse reviewer completed InterQual Smart Sheets to evaluate the merits of the request and was unable to approve the procedure. She forwarded the request to WVMi's physician reviewer, who issued the denial.
- 4) The medical supply company's pre-authorization request form did not contain information or documentation that corresponded to the "Clinical Presentation" section of the Nurse Reviewer's InterQual Smart Sheets criteria.
- 5) The medical evidence submitted on behalf of Claimant failed to meet prior authorization criteria; therefore, the Department acted correctly in denying the Claimant's request for Medicaid payment of L1810 knee braces.

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 knee braces.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of July 2010.

**Stephen M. Baisden
State Hearing Officer**