



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

July 8, 2011

-----for

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 7, 2011. Your appeal was based on the Department of Health and Human Resources' denial of your request for payment of incontinence supplies through the Medicaid Program.

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.

The West Virginia (WV) Medicaid Program offers a comprehensive scope of Durable Medical Equipment (DME)/Medical Supply services to Medicaid members, subject to medical necessity, appropriateness criteria and prior authorization requirements. When requesting DME services and items 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 any other relevant information (West Virginia Bureau for Medical Services Provider Manual, Chapter 506).

Information submitted at the hearing reveals that your prescribing practitioner neither provided a primary diagnosis of urinary or fecal incontinence, nor a secondary diagnosis from the Incontinence Guidelines.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in its decision to deny your request for Medicaid payment (prior authorization) of incontinence supplies (garments).

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Amy Workman, BMS

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

-----,

CLAIMANT,

v.

Action Number: 11-BOR-1151

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

RESPONDENT.

DECISION OF THE 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 July 7, 2011 on a timely appeal filed May 2, 2011.

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 the development of regulations to implement Federal and State requirements for the program. The Department of Health & Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

-----, Claimant's Sister/Representative

-----, Claimant's witness

-----, Claimant's witness

-----, Claimant's witness

-----, Claimant's witness

-----, Claimant's witness

-----, Claimant's witness

Virginia Evans, Department Representative

Regina Adkins, RN, WVMI – Department's witness

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

It should be noted that this hearing was convened via telephone conference call.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in denying the Claimant's request for prior authorization (Medicaid payment) of incontinence supplies.

V. APPLICABLE POLICY:

West Virginia Bureau for Medical Services Provider Manual, Chapter 506
Adult/Pediatric Incontinence Guidelines, HCPCS A4520 and A4554

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Bureau for Medical Services Provider Manual, Chapter 506 DME/Medical Supplies, Section 506.5 – PRIOR AUTHORIZATION
- D-2 Adult/Pediatric Incontinence Guidelines HCPCS A4520 and A4554 – 5 pages
- D-3 Information received from [REDACTED] M.D., and [REDACTED] Pharmacy
- D-4 Notice of Denial Determination by West Virginia Medical Institute (WVMI) – dated 3/24/11
- D-5 Request for reconsideration by [REDACTED] Pharmacy
- D-6 Notice of Reconsideration Determination by West Virginia Medical Institute (WVMI) – dated 4/4/11

VII. FINDINGS OF FACT:

- 1) On or about March 24, 2011, West Virginia Medical Institute (WVMI) notified the Claimant via a Notice of Denial for Durable Medical Services (D-4) that his request for incontinent supplies was denied. This document states, in pertinent part, Reason for Denial:

Documentation provided does not indicate medical necessity.

The request for A4520 Incontinence Garments cannot be approved. WV Medicaid /InterQual criteria requires [sic] a diagnosis of urinary and/or fecal incontinence and a secondary diagnosis from the Incontinence Guidelines to explain the cause of the incontinence.

The Documentation provided did not contain a primary diagnosis of urinary and/or fecal incontinence and an approvable secondary diagnosis from the Incontinence Guidelines, therefore, WV Medicaid/Interqual [sic] criteria has not been met.

- 2) The Department's representative introduced Exhibits D-1 through D-6 and testified that Medicaid payment for Durable Medical Equipment (DME) and medical supplies can only be approved after the individual receives prior authorization by meeting medical necessity criteria. The Department's witness, Regina Adkins, RN, West Virginia Medical Institute (WVMI), reviewed the WVMI Medicaid DME / Medical Supplies Authorization Request Form (D-3) submitted and noted that the Claimant's physician did not provide a primary diagnosis of urinary or fecal incontinence, or a secondary diagnosis that would explain the cause of the incontinence. RN Adkins reviewed the Adult/Pediatric Incontinence Guidelines (D-2) and demonstrated that prior authorization cannot be granted in the absence of a diagnosis of incontinence and a secondary diagnosis to explain the cause. The Claimant, his physician (REDACTED) M.D.) and his provider (REDACTED) Pharmacy) were notified of the missing information in Exhibit D-4.
- 3) The Department noted that a reconsideration request was received (D-5) from (REDACTED) Pharmacy, however, this document again fails to include a primary diagnosis of incontinence or a secondary diagnosis to explain the cause. It was also noted that a provider is not authorized to provide or change diagnoses. As a result, the Claimant, his provider, and his physician were again notified (D-6) that prior authorization criteria had not been met. Because the Claimant does not present an eligible diagnosis, and the diagnosis provided is not included in the Adult Pediatric Incontinence Guidelines, medical necessity could not be established and prior authorization for Medicaid payment of incontinence supplies could not be granted.
- 4) West Virginia Bureau for Medical Services Provider Manual § 506.4 (2) (DOCUMENTATION REQUIREMENTS) provides the following documentation requirements for DME/Medical Supplies and states, in pertinent part:

Records must include documentation of medical necessity for equipment and/or supplies provided to meet the basic health care needs of the member.

Effective May 1, 2006, a written prescription which must include the member's name, date of prescription, description of code, estimated length of need in months, quantity of item(s), frequency of use and prescribing practitioner's signature and given to the member by the prescribing practitioner. A copy of the hospital discharge plan and/or progress notes do not constitute a written prescription for DME/Medical Supplies.

- 5) West Virginia Bureau for Medical Services Provider Manual § 506.5 (PRIOR AUTHORIZATION) states that for DME services and items requiring prior authorization (PA) 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 (see 506.4, 2nd paragraph, (2) for clarification) and any other relevant information. Additionally, a licensed physical therapist or licensed occupational therapist who is fiscally, administratively and contractually

independent from the DME provider may also submit clinical documentation for review when requested by the prescribing practitioner. PA recertification review is required at the end of the prescription period specified or within one (1) year whichever comes first. It is strongly recommended that DME providers, in partnership with prescribing practitioners, assist in obtaining prior authorizations. Prescribing practitioners must provide clinical information and a written prescription while DME providers may submit the appropriate HCPCS code and billing information. If items and/or services provided before the PA is confirmed, the DME will not be reimbursed. PA does not guarantee payment.

- 6) Bureau for Medical Services Adult/Pediatric Incontinence Guidelines - HCPCS A4520 and A4554 - provides eligible diagnoses and ICD-9-CM Codes that meet medical necessity. It should be noted that the diagnosis provided by the Claimant's physician is not included in this list.

VIII. CONCLUSIONS OF LAW:

- 1) Medicaid policy provides that DME and medical supplies require a prior authorization (PA) review for medical necessity by WVMI before Medicaid payment is approved.
- 2) In conjunction with this provision, the Claimant's physician completed an authorization request form for Medicaid payment of incontinence garments. Pursuant to the testimony and documentation submitted at the hearing, medical necessity for incontinence garments is demonstrated by presenting a primary diagnosis of incontinence (fecal and/or urinary) and a secondary diagnosis that explains the cause. Evidence reveals that the authorization request form submitted by the Claimant's physician, and again by his provider, failed to include a primary diagnosis of incontinence or a secondary diagnosis from the approved incontinence guidelines.
- 3) In accordance with WV Medicaid policy, the Department acted within policy guidelines in denying Medicaid payment for the Claimant's incontinence garments.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny prior authorization for Medicaid payment of incontinence supplies as medical necessity criteria was not met.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this ____ Day of July, 2011.

**Thomas E. Arnett
State Hearing Officer**