



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

Board of Review
P.O. Box 1736
Romney, WV 26757

**Earl Ray Tomblin
Governor**

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

July 26, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 22, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your prior authorization request for a Magnetic Resonance Imaging (MRI) of the lumbar 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. These regulations provide that 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 request for radiological services must be submitted within the timeframe required by the UMC.

The information which was submitted at your hearing revealed that the submitted medical documentation for review did not meet clinical indications to determine your eligibility for services; therefore, your imaging request could not be approved.

It is the decision of the State Hearing Officer to Uphold the action of the Department in denying Medicaid authorization for a MRI of the lumbar spine.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Amy Workman, Bureau for Medical Services

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1323

**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 a timely appeal, filed June 1, 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 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 mother

Stacy Hanshaw, Program Manager-Bureau for Medical Services (BMS)

Julie Mobayed, RN-West Virginia Medical Institute (WVMI)

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 Medicaid authorization for MRI of the lumbar spine.

V. APPLICABLE POLICY:

WVDHHR Radiology Manual Chapter 528, Section 528.7

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVDHHR Radiology Manual Chapter 528, Section 528.7
- D-2 InterQual SmartSheets 2010 Imaging Criteria
- D-3 WVMI Medicaid Imaging Authorization Request Form dated April 12, 2011
- D-4 Letter from [REDACTED] R.T dated April 19, 2011
- D-5 UMC Medicaid Imaging Authorization Request Form dated May 4, 2011
- D-6 Claimant's medical information from [REDACTED] M.D.
- D-7 Notice of Denial for Imaging Services dated April 13, 2011
- D-8 Notice of Preadmission Reconsidered Determination from West Virginia Medicaid
- D-9 Notice of Denial for Imaging Services dated May 6, 2011

Claimants' Exhibits:

- C-1 Claimant's medical information

VII. FINDINGS OF FACT:

- 1) On April 12, 2011, the Claimant's physician submitted Exhibit D-3, Medicaid Imaging Authorization Request Form to West Virginia Medical Institute (WVMI) requesting pre-authorization for a Magnetic Resonance Imaging (MRI) of the Claimant's lumbar spine.
- 2) On April 13, 2011, WVMI issued Exhibit D-7, Notice of Denial for Imaging Services to the Claimant and her physician, [REDACTED] M.D. These notices document in pertinent part:

Reason for Denial: Subset; MRI Lumbar spine was not met. The information provided did not note pain / paresthesias / numbness worse with walking. Pain / paresthesias / numbness worse with spinal extension, pain / paresthesias / numbness improved with forward flexion, NSAID's for 3 weeks and activity modification for 6 weeks.

Additionally, it should be noted that the physician's notice of denial indicates that a reconsideration of the determination could be made if a written request and supporting documentation was submitted to WVMI within 60 days of the receipt of the notice.

- 3) -----, submitted a reconsideration request on the denial of preauthorization for the MRI of the Claimant's lumbar spine. Along with the reconsideration request, ----- submitted a letter dated April 19, 2011 (Exhibit D-4) which documents in pertinent part:

I am writing in regards [sic] to -----'s recent denial for her MRI with contrast. I feel this patient really needs to have this test done. She has had many reoccurring injuries to her back, including numerous motor vehicle accidents in past years. The patient is experiencing chronic back pain, which was treated as of no [sic] Hydrocodone 5mg/500mg. She is experiencing pain and numbness in her left lower extremities when walking. She has been going to physical therapy as directed for the past two months. She has also had prior back surgeries, which showed changes in her recent xrays [sic]. Please reconsider your decision on this case, it is key for diagnosis of this patient.

- 4) Upon review of the information submitted for reconsideration, the Department issued the Claimant Exhibit D-8, Notice of Preadmission Reconsidered Determination on April 27, 2011 which documents in pertinent part:

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.

After reviewing the additional information provided; the physician reviewer did not feel that the MRI lumbar was justified. The physician reviewer noted no documentation of conservative treatment of NSAIDs and no report on success of Physical Therapy. Therefore, the initial denial of the MRI Cervical [sic] spine is affirmed.

- 5) On May 4, 2011, the Claimant's neurosurgeon, [REDACTED] M.D. submitted Exhibit D-5, Medicaid Imaging Authorization Request Form requesting preauthorization of a MRI of the Claimant's lumbar spine. The Claimant's medical assessment and plan from May 3, 2011 (Exhibit D-6) was submitted with the second request. Exhibit D-6 documents in pertinent part:

----- is a 41 year old disabled woman who returns here today regarding back and bilateral leg symptoms. She had a right L4-5 discectomy in 2009 for right leg symptoms. She continued to have less severe right leg symptoms postoperatively. She now reports severe new symptoms four to six weeks ago without any known precipitating events. She describes moderate to severe aching, sharp and stabbing low back pain with radiation along the posterior aspect of the lower extremities bilaterally to the feet. The back pain is rather constant and aggravated with lying down, standing, walking and prolonged sitting. The leg pain is intermittent, but present daily and aggravated with standing and walking activity. She feels that the back and leg symptoms are of equal severity. She also has persistent numbness along the posterior aspect of the legs as well. She feels that the legs are weak and clumsy. She reports multiple episodes of bladder incontinence, noting she felt the urge to urinate, but was unable to get to the bathroom in time. She denies any bowel dysfunctions. She takes Vicodin and Robaxin with limited benefit. She has tried a home

exercise program without significant symptom improvement. She feels that her symptoms are significantly functionally limiting at this point and continue to progress. On exam, motor function and sensation are grossly intact. Deep tendon reflexes are symmetric. The lumbar spine is tender to palpation. Gait is normal. She has no new Imaging studies available for review. A postop [sic] lumbar MRI from 2009 demonstrates no residual disc herniation. She does have degenerative disc disease at noted at L3-4 and L4-5 without any stenosis. She now describes mechanical back pain and bilateral leg symptoms most consistent with an S1 dermatomal distribution. I have recommended a new lumbar MRI to assess for new herniation or stenosis. She will begin outpatient physical therapy in the interim. She will continue pain medication per her primary care provider. She will return here for follow up in 4-6 weeks. She will call or return sooner with any new or progressive neurologic symptoms.

- 6) On May 6, 2011, WVMI issued Exhibit D-9, Notice of Denial for Imaging Services to the Claimant and her neurosurgeon [REDACTED] M.D. These notices document in pertinent part:

Reason for Denial: MRI LUMBAR SPINE. There is not enough clinical information provided to determine medical necessity. InterQual Criteria 122 not met: There was no documentation of a physical exam with any abnormal focal neurological findings or that symptoms have continued after conservative treatment with NSAID's for greater than 3 weeks and activity modification, such as physical therapy for greater than 6 weeks.

Additionally, it should be noted that the physician's notice of denial indicates that a reconsideration of the determination could be made if a written request and supporting documentation was submitted to WVMI within 60 days of the receipt of the notice. Ms. Julie Mobayed, Nurse Reviewer, WVMI testified that the Claimant's physician did not submit a reconsideration request in the outlined timeframe.

- 7) Ms. Mobayed testified that she reviewed the second request submitted from [REDACTED] M.D. Testimony indicated that the information concerning the requested MRI must meet an indication listed on Exhibit D-2, InterQual SmartSheets, in order for Medicaid authorization to be approved. Based on review of the supplied information, a clinical indication was not met. Specifically, the information failed to meet clinical indications listed in Exhibit D-2 of unilateral radiculopathy with sensory deficit, refractory severe pain in nerve root and mild to moderate pain/paresthesia/numbness in nerve root distribution with continued symptoms after NSAIDS for greater than three weeks and physical therapy for greater than six weeks.
- 8) -----, the Claimant's mother indicated that the Claimant is "unable to take NSAIDs due to GI bleeding" and that the Claimant did complete physical therapy in which she did not improve. The Claimant submitted Exhibit C-1, which documents her past medical history as well as visits physician visits for May 2011 through July 2011. The Department can only make a decision based on information known at the time of the request for preauthorization. In consideration that the majority of these physician's visits were completed after the issued Notice of Denial (Exhibit D-9) dated May 6, 2011, this information was not known to the Department and cannot be considered in the State Hearing Officer's decision. The Claimant's mother indicated that the Claimant has made various trips to the emergency room and physician's visit and has attempted to gain the prior authorization approval for the past three

months. Additionally, the Claimant's mother indicated that the Claimant has a fear of "losing feeling." ----- indicated that her daughter has trouble walking, standing and bathing and that her daughter's condition is deteriorating.

- 9) WVDHHR Radiology Manual chapter 528, Section 518.7 documents in pertinent 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 with the timeframe required by the UMC.

VIII. CONCLUSIONS OF LAW:

- 1) Evidence reveals that a second request for a MRI of the Claimant's lumbar spine was submitted to WVMI after the Claimant submitted an initial request and a reconsideration of the April 2011 denial of prior approval. The submission of an additional request renders the initial request and reconsideration of denial moot. Therefore, the issue before the Board of Review is whether or not the Department was correct in its decision to deny the Claimant's May 2011, request for preauthorization of a MRI of the lumbar spine.
- 2) Policy stipulates that the referring physician must submit sufficient documentation for clinical justification of radiology services requiring prior authorization for Medicaid payment.
- 3) Evidence indicates that the Claimant's physician requested authorization for Medicaid coverage of MRI of the Claimant's lumbar spine on May 5, 2011 and WVMI denied such request based on the failure of the clinical data to meet InterQual criteria.
- 4) Because the Department could not determine that the prior authorization request met eligibility criteria, it acted correctly in denying Medicaid authorization for a MRI.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the Department's decision to deny Medicaid authorization for a MRI of the Claimant's lumbar spine.

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.

Eric L. Phillips
State Hearing Officer