



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

Earl Ray Tomblin  
Governor

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

October 20, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 18, 2011. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid authorization for 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 Medicaid services is based on current policy and regulations. Some of these regulations state as follows: West Virginia Medicaid does not cover occupational/physical therapy services in excess of 20 visits (per calendar year) provided for chronic conditions. (WVDHHR Occupational/Physical Therapy Manual Chapter 515, Section 515.6)

Information presented during the hearing reveals that the requested physical therapy services were at a maintenance level in conjunction with a chronic condition. Therefore, your request for physical therapy services 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 physical therapy services.

Sincerely,

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

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

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

**IN RE:** -----,

**Claimant,**

**v.**

**Action No.: 11-BOR-1947**

**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 18, 2011 on a timely appeal filed August 30, 2011 and received by the Hearing Officer on September 27, 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 husband

Virginia Evans, HHR Specialist, Bureau for Medical Services, WVDHHR

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 Occupational/Physical Therapy Manual Chapter 515, Introduction, Sections 515.3.u, 515.4 and 515.6, Attachment 1

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 WVDHHR Occupational/Physical Therapy Manual Chapter 515, Introduction, Sections 515.3.u, 515.4 and 515.6, Attachment 1
- D-2 WVMI Screening Criteria for Physical Therapy, Sections II and III
- D-3 Information from [REDACTED] M.D., and [REDACTED] Physical Therapist
- D-4 Notices of Denial Determination from WVMI to the Claimant, Dr. [REDACTED] and [REDACTED]  
[REDACTED]

**VII. FINDINGS OF FACT:**

- 1) The Claimant's physician, [REDACTED] M.D., submitted a Physical/Occupational Therapy Prior Authorization Request Form (D-3) to West Virginia Medical Institute (WVMI) on or about July 17, 2011, requesting pre-authorization for 16 therapy treatments.
- 2) WVMI sent Notices of Denial for Physical Therapy Services (D-4) to the Claimant, Dr. [REDACTED] and [REDACTED] on July 18, 2011, which state, in 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 16 visits from 07182011 to 09182011 was denied due to not meeting WV Medicaid criteria.

The documentation provided reflected a condition that is at maintenance level.

- 3) WVMI Registered Nurse/Case Manager Jenny Craft addressed the medical information received from Dr. [REDACTED] and Mr. [REDACTED] (D-3). The form states that the Claimant – who is 41 years old - suffered a cerebrovascular accident (CVA), which resulted in significant weakness of her left upper and lower extremities. The form lists no primary or secondary diagnosis, and indicates that the Claimant's short-term goal with continued therapy is to increase ambulation distance, regain the ability to ascend/descend stairs, and pick up a three-pound weight to shoulder height. Long-term goals are to further increase ambulation distance, pick up a five-pound weight, and ambulate on uneven terrain and over obstacles. Ms. Craft indicated that the documentation provided suggests the therapy is to provide a maintenance level of care as a result of the Claimant's CVA, which occurred in August 2010. Therefore, the services would not qualify for Medicaid authorization.

- 4) The Claimant testified that she has two children and wishes to regain her independence through additional therapy sessions.

The Department's representatives indicated that the Claimant's physician could provide additional information and submit a new request for authorization.

- 5) WVDHHR Occupational/Physical Therapy Manual Chapter 515, Section 515.3 (D-1) addresses covered therapy services and 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...

**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.*

- 6) WVDHHR Occupational/Physical Therapy Manual Chapter 515.6 (D-1) states that West Virginia Medicaid does not cover occupational/physical therapy services in excess of 20 visits (per calendar year) provided for chronic conditions, such as arthritis, cerebral palsy, and developmental delay.

- 7) WVMI Screening Criteria for Physical Therapy, Section II, (D-2) provides information concerning physical therapy maintenance programs and states, in part:

The repetitive services required to maintain function generally do not involve complex and sophisticated physical therapy

procedures, and, consequently, the judgement [*sic*] and skill of a qualified physical therapist are not required for safety and effectiveness. Maintenance programs would not be considered for payment beyond 20 sessions, as it would be viewed as a chronic condition.

Section III of the Screening Criteria defines a chronic condition as one lasting six months or longer.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy stipulates that West Virginia Medicaid does not cover occupational/physical therapy services in excess of 20 visits (per calendar year) provided for chronic conditions. A chronic condition is considered as one lasting six months or longer.
- 2) The Claimant suffered a CVA in August 2010 and has requested physical therapy services in excess of 20 per calendar year.
- 3) Evidence reveals that WVMI denied the request because medical documentation submitted indicates the requested therapy is for a maintenance level of care.
- 4) Because the Department could not determine that the prior authorization request met eligibility criteria, it acted correctly in denying Medicaid authorization for 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.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 20th Day of October, 2011.**

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**Pamela L. Hinzman  
State Hearing Officer**