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

November 15, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 8, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your prior authorization for Medicaid payment for arthroscopy of the right shoulder.

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 prior authorization must be obtained from WVMI prior to the provision of outpatient services. Failure to obtain prior authorization results in denial of services and a Medicaid member cannot be billed for failure to receive authorization. (WVDHHR Hospital Services Manual Chapter 510.8.1)

The information which was submitted at your hearing revealed that medical documentation submitted for consideration was insufficient for Medicaid authorization of arthroscopy of the right shoulder.

It is the decision of the State Hearing Officer to Uphold the action of the Department in denying Medicaid authorization for outpatient services.

Sincerely,

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

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

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

IN RE: -----,

Claimant,

v. **ACTION NO.: 11-BOR-2004**

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 September 9, 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 reimbursement to providers participating in the program.

III. PARTICIPANTS:

-----, Claimant
-----, Claimant's witness
Cindy Engle, RN, Program Manager-Bureau for Medical Services (BMS)
Lisa Ray, 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 prior authorization for Medicaid payment for an arthroscopy of the right shoulder.

V. APPLICABLE POLICY:

Bureau for Medical Services Practitioner Manual Chapter 519.2 and 507.3.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Bureau for Medical Services Practitioner Manual Chapter 519.2 and 507.3.1
D-2 InterQual SmartSheets 2011
D-3 WVMI Medicaid Outpatient Services Authorization Request Form and additional information from [redacted] M.D. dated August 24, 2011
D-4 Notice of Denial for Outpatient Services dated August 11, 2011

VII. FINDINGS OF FACT:

1) On August 24, 2011, the Claimant's physician, Douglas Duncan, M.D., submitted Exhibit D-3, WVMI Medicaid Outpatient Services Authorization Request Form to West Virginia Medical Institute, hereinafter WVMI, requesting prior authorization of a right shoulder arthroscopy for the Claimant.

2) On August 11, 2011, WVMI issued Exhibit D-4, Notice of Denial for Outpatient Services to the Claimant and his physician. This exhibit documents in pertinent part:

> A request for prior authorization was submitted for outpatient services. Based on the medical information provided, the request has been denied.
>
> Reason for Denial: Surgical InterQual criteria was not met. The outpatient procedure, Arthroscopy of Right Shoulder did not meet InterQual surgical criteria. There was no documentation of a shoulder injury by history. There was no documentation of NSAIDs for at least 4 weeks, OT/PT for at least 6 weeks and activity modification for at least 6 weeks.

3) Ms. Lisa Ray, Nurse Reviewer-WVMI, testified that she reviewed submitted clinical information that documented a labral tear and compared it to the requirements for prior authorization outlined in Exhibit D-2, InterQual SmartSheets 2011; specifically, the repair of superior labral anterior posterior (SLAP). Ms. Ray testified that the clinical information revealed that the Claimant has completed a positive active compression test and a magnetic

resonance image of the SLAP lesion, but fails to indicate a history of shoulder injury and continued symptoms after failed treatment of non-steroidal anti-inflammatory drugs (NSAID) for greater than four weeks, occupational or physical therapy greater than six weeks, and activity modification for greater than six weeks. Ms. Ray stated that clinical information indicated that the Claimant was referred to a pain clinic, but fails to document the types of medications prescribed. Testimony indicated that the Claimant's request for prior authorization was forwarded to a physician reviewer and was subsequently denied due to incomplete information.

4) The Claimant testified that he suffers from a "ripped rotor cuff, burr, and cyst" and has completed the NSAID treatment and physical therapy requirements. The Claimant indicated that he is incapable of utilizing his right arm due to the pain he experiences in his right shoulder. The Claimant indicated that he would obtain the required information and submit an additional prior authorization request.

5) Bureau for Medical Services Practitioner Manual 519.2 documents in pertinent part:

> All services must be medically necessary and appropriate to the member's needs in order to be eligible for payment. The medical records of all members receiving Practitioner Services must contain documentation that establishes the medical necessity of the service.
>
> 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. Nor does it mean that the patient is eligible for Medicaid benefits. It is the provider's responsibility to verify Medicaid eligibility and obtain appropriate authorizations before services are rendered.

6) Bureau for Medical Services Practitioner Manual 507.3.1 documents in pertinent part:

> Certain surgeries performed in place of service 22 (outpatient hospital) and 24 (ambulatory surgical center) will require prior authorization, effective February 15, 2006. The selected surgeries that require prior authorization through the BMS review contractor are listed in Attachment 1, along with the PA form that may be utilized.
>
> Prior authorization must be obtained from WVMI prior to the provision of the services. Failure to obtain prior authorization will result in denial of the services; the Medicaid member can not [sic] be billed for failure to receive authorization for these services.

VIII. CONCLUSIONS OF LAW:

1) Policy requires that certain outpatient surgeries meet prior authorization requirements.

2) Evidence reveals that the Claimant's physician submitted a prior authorization request for arthroscopy of the right shoulder in August, 2011 and WVMI denied the request based on insufficient data to meet the established InterQual criteria.

3) Because the Department could not determine that the prior authorization request met eligibility criteria, it acted correctly in denying Medicaid authorization for an arthroscopy of the Claimant's right shoulder.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the Department's decision to deny Medicaid authorization for outpatient services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of November, 2011.

_____

Eric L. Phillips
State Hearing Officer