



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

March 10, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 24, 2011. Your hearing request was based on the Department of Health and Human Resources' denial of Medicaid authorization for a K0861 power wheelchair and accessories.

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: Durable medical equipment requested by a prescribing practitioner may be considered for reimbursement by West Virginia Medicaid when determined to be both medically necessary to meet an individual's basic health care needs, and the most economical choice to accomplish those needs. The requested equipment must be covered under Medicaid policy in order for authorization to be granted. (WVDHHR Durable Medical Equipment Manual Chapter 506.3 and 506, Attachment 1)

Information submitted at your hearing reveals that your request for a power wheelchair/accessories includes a specific power elevation system not covered under Medicaid policy.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying Medicaid authorization for a power wheelchair/accessories.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Amy Workman, BMS
[REDACTED] West Virginia Advocates

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

-----,

Claimant,

v.

Action Number: 10-BOR-2262

**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 telephonically on February 24, 2011 on a timely appeal filed November 15, 2010. The hearing was originally scheduled for January 20, 2011, but was continued at the request of West Virginia Advocates. The hearing was then rescheduled for February 10, 2011, but was continued at the request of West Virginia Advocates.

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 girlfriend

██████████ Advocate, West Virginia Advocates

Virginia Evans, DHHR Specialist, Bureau for Medical Services

Pat Woods, RN, Director of the Office of Professional Services, Bureau for Medical Services

Barb Reed, RN, Durable Medical Equipment Nurse Reviewer, West Virginia Medical Institute

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

Observing was Kerry Frame, RN, West Virginia Medical Institute

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its decision to deny Medicaid authorization for a power wheelchair and accessories.

V. APPLICABLE POLICY:

WVDHHR Durable Medical Equipment Manual Chapter 506, Section 506.3.1.c, 506.5 and Attachment 1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 WVDHHR Durable Medical Equipment Manual Chapter 506, Section 506.3.1.c, 506.5 and Attachment 1

D-2 Medical information from ██████████ M.D., and ██████████ Home Medical

D-3 Notices of Denial dated August 12, 2010

D-4 Request for reconsideration received from ██████████ Home Medical on September 17, 2010

D-5 Reconsideration denial notice dated September 21, 2010

Claimant's Exhibits:

C-1 Hearing Scheduling Order dated January 21, 2011

C-2 Hearing Scheduling Order dated January 14, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant's medical provider submitted a West Virginia Medical Institute (WVMI) Medicaid DME/Medical Supplies Authorization Form in August 2010 (D-2) requesting Medicaid authorization for a K0861 power wheelchair and accessories, including a E2300 power elevation system. The request included additional information from [REDACTED] M.D., Physical Therapist [REDACTED] and [REDACTED] Home Medical. (D-2).
- 2) WVMI reviewed the information and sent Notices of Denial (D-3) to the Claimant, Dr. [REDACTED] and [REDACTED] Home Medical on August 12, 2010, which state, in pertinent part:

Reason for Denial: Exceeds service limit of 1 in 5 years.

The request for K0861 Power wheelchair and accessories cannot [sic] be approved, as this request exceeds the WV Medicaid service limit of one mobility device per 5 rolling years.

Records indicate this same member received a K0003 Light weight manual wheelchair provided by the same vendor and paid by WV Medicaid 9/22/09. Therefore, this request exceeds WV Medicaid service limit.

Information provided did not document a change or a decline in the member's medical condition, since authorization of the manual wheelchair, [sic] that now warrants a power wheelchair.

Submitting documentation of the functioning condition/status of the previously authorized equipment, and why this less than 1 year old wheelchair can no longer meet the member's mobility needs would allow for reconsideration of the request.

E2300 POWER ADJUSTABLE SEAT HEIGHT IS A NON-COVERED ITEM BY WV MEDICAID.

The letter indicates that the provider could request reconsideration of the decision within 60 days of receipt of the notice.

- 3) [REDACTED] Home Medical submitted a request for reconsideration on September 17, 2010 (D-4).
- 4) WVMI sent reconsideration denial notices (D-5) on September 21, 2010, which state, in pertinent part:

A request was made to WVMI to reconsider this initial determination. After due consideration of all relevant factors including documentation in the medical record and any additional information provided, WVMI upheld the initial denial.

- 5) The Claimant testified that he was involved in an accident in March 2009 that resulted in his quadriplegia. He is currently using the manual wheelchair authorized by Medicaid when he was initially released from [REDACTED] Hospital. The Claimant has since been hospitalized several times for decubitis as he is unable to tilt his manual wheelchair to release pressure from various areas of his body. Testimony revealed that the chair offers no support for the Claimant's neck, trunk and legs.
- 6) The Department's representatives contended that the durable medical equipment provider is required to replace the wheelchair if the wheelchair originally prescribed was unsuitable. [REDACTED] the Claimant's representative, agreed that the situation was not handled correctly in 2009, but the Claimant's current wheelchair is not meeting his medical needs and is causing him additional medical problems. She indicated that the Claimant's condition has changed and he would be able to operate a joystick to maneuver a power wheelchair.
- 7) WVDHHR Durable Medical Equipment Manual Chapter 506, Attachment 1 (D-1) states that a rollabout chair (any and all types with castors of 5 inches or greater) are limited to one per five rolling years. Prior authorization is required.
- 8) WVDHHR Durable Medical Equipment Manual Chapter 506, Section 506.3.1.c (D-1) states that replacement of durable medical equipment can be covered by West Virginia Medicaid on an as-needed basis due to acute rapid changes in the member's physical condition, wear, theft, irreparable damage, or loss caused by disasters.
- 9) WVDHHR Durable Medical Equipment Manual Chapter 506, Section 506.3 (D-1) states, in part:

A complete list of covered and non-covered DME/medical supplies and other related services/items provided through DME are seen in **Attachments I and II**. **Attachment I** describes the DME/medical supplies through current HCPCS codes, description of each code, replacement code for closed codes (as appropriate), service limits, prior authorization requirements and special coverage instructions.
- 10) WVDHHR Durable Medical Equipment Manual Chapter 506, Attachment 1 (D-1) states that Item E2300, a power wheelchair accessory, power seat elevation system is a non-covered item under West Virginia Medicaid.

VIII. CONCLUSIONS OF LAW:

- 1) West Virginia Medicaid policy requires pre-authorization of Medicaid coverage for some durable medical equipment and provides a complete list of covered and non-covered items. It is the responsibility of the ordering provider to submit the appropriate clinical documentation required for approval, and failure to obtain prior authorization results in denial of payment for the equipment. Wheelchairs are limited to one unit per five rolling years, however, replacement can be authorized due to acute, rapid changes in the Claimant's medical condition.

- 2) The Claimant's medical provider requested authorization of Medicaid coverage for a K0861 power wheelchair in August 2010, however evidence indicates that the Claimant had acquired a K0003 manual wheelchair within the past five years. While policy provides that durable medical equipment can be replaced on an as-needed basis due to changes in the member's physical condition, the requested wheelchair/accessories must be covered items under policy in order for Medicaid authorization to be granted.
- 3) As the E2300 power elevation system is a non-covered item under policy – and the provider specifically requested authorization of that particular item in the request for a power wheelchair/accessories - the Department acted correctly in denying the Claimant's request for Medicaid authorization. Changes in the Claimant's medical condition will not be considered in this decision as the request for the power wheelchair/accessories – as submitted – contains an item not covered under Medicaid policy.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny Medicaid authorization for a power wheelchair and accessories.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 10th Day of March, 2011.

Pamela L. Hinzman
State Hearing Officer