



State of West Virginia
DEPRIOR AUTHORIZATIONRTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

March 3, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 9, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization of Medicaid payment for an 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. Some of these regulations state that 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. (WVDHHR Hospital Services Manual Chapter 528.7)

The evidence presented at your hearing reveals that the information submitted by your physician for review did not meet the clinical indications for the requested study. There was insufficient information provided regarding the trial of conservative treatment with non-steroidal anti-inflammatory (NSAIDS) medications and activity modification. This information is found to be necessary in determining medical necessity for this service.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for prior authorization of an MRI of the lumbar spine.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

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

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

-----,

Claimant,

v.

Action Number: 10-BOR-2412

**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 February 9, 2011 on a timely hearing request filed December 13, 2010.

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

Stacy Hanshaw, BMS, Department Representative
Paula McComas, RN, WVMI, Department's witness

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

It should be noted that the Department and its witnesses participated by telephone conference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its decision to deny prior authorization (PA) for Medicaid payment for an MRI of the lumbar spine.

V. APPLICABLE POLICY:

WVDHHR Medicaid Policy Manual, Chapter 528.7

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVDHHR Medicaid Manual Chapter 528.7
- D-2 WVMi Medicaid Imaging Authorization Request Form and Interqual Smart Sheet for MRI of the lumbar spine
- D-3 Notification letters to Claimant, facility and physician dated November 24, 2010

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On or about December 16, 2009 the Department notified the Claimant via a Notice of Denial (D-4) that his request for prior authorization (PA) for Medicaid payment for an MRI [Magnetic Resonance Imaging] of the lumbar spine was denied. The notice included the following pertinent information:

Reason for Denial: MRI LUMBAR

There was no documented trial of treatment using NSAID and activity modification.

- 2) Evidence presented by the Department (D-1) reveals that prior authorization is required for Medicaid payment for an MRI of the lumbar spine. West Virginia Medical Institute (WVMi) is the agency contracted to review prior authorization requests and determine eligibility. The WVMi representative, Paula McComas, a registered nurse, testified that after reviewing the information the Claimant's physician submitted, WVMi was unable to determine medical necessity. She added that the request was referred to the physician reviewer for a decision. She stated that the physician reviewer also was unable to determine, based on the information

provided by the physician, whether the Claimant met the clinical indications for prior approval of the scan. She stated that the physician did not indicate the duration of the trial of conservative treatment with NSAIDs and activity modification.

- 3) The WVMI nurse explained that the Inter-Qual Smart Sheet (D-2) was used to determine whether the procedure could be approved. She explained that the information provided by the physician was applied first to the indications (100) through (1100) and did not match up with any of them based on a lack of available information.
- 4) Specifically, the WVMI nurse provided that, although there was some information provided by the physician to support that the Claimant was involved in NSAID treatment, the information was not specific enough to supply a timeframe for the trial. She stated that the InterQual Smart Sheet (D-2) requires evidence of NSAID treatment for more than three weeks. The physician only indicated that the Claimant “has been on NSAIDs”.
- 5) Additionally, the WVMI nurse provided that, although the physician indicated in the medical request form (D-3) that the Claimant had been through several courses of physical therapy in the past, he did not supply a specific timeframe for the physical therapy. She added that the InterQual Smart Sheet (D-2) requires evidence of activity modification for more than six weeks.
- 6) The Claimant testified that he is very limited in his functioning due to the pain. He stated that he has been taking NSAID medication for more than four (4) years now. He added that his physician has given him exercises to do, such as squatting, standing on the tip of his foot, and sitting up straight. The Claimant pointed to evidence in (D-3) from Dr. [REDACTED], in which the physician has indicated that he has possible lumbar degenerative disc disease, and recommends that an MRI of the lumbar spine be completed. He also pointed to evidence (D-3) from Dr. [REDACTED] in which degenerative facet changes of the lower lumbar spine are seen.
- 7) WVDHHR Hospital Services Manual, Chapter 528.7 provides in pertinent part:

PRIOR AUTHORIZATION REQUIREMENTS FOR IMAGING PROCEDURES

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 within the timeframe required by the UMC.

The UMC reviews all requests for services requiring prior authorization. When the medical documentation does not meet medical necessity criteria or additional information is not received a denial letter is sent to the member or their legal representative, the requesting provider and facility. This denial letter notes the reason for the denial and includes information regarding the member's right to a fair hearing and a Request for Hearing Form for completion. In

addition, the letter sent to the provider contains information regarding their right to a reconsideration of the denial.

VIII. CONCLUSIONS OF LAW:

- 1) WVDHHR Hospital Services Manual provides that prior authorization is required for an MRI of the lumbar spine.
- 2) The evidence reveals that the Department (through WVMI) received a request from the Claimant's physician for prior authorization of Medicaid payment for an MRI of the lumbar spine. This request failed to show the Claimant meets all the required criteria necessary for approval of prior authorization for the procedure.
- 3) The Department utilizes the Inter-Qual Smart Sheet in order to determine whether a prior authorization request can be approved. The Smart Sheet requires evidence of NSAID treatment for greater than a three (3) week period, and evidence of activity modification for greater than six (6) weeks.
- 4) Although some evidence was provided by the physician which shows the Claimant is involved in NSAID treatments and activity modification, this information was not specific enough to determine if it met the Inter-Qual Smart Sheet criteria.
- 5) The Claimant's testimony regarding his activity modification and duration of NSAID treatment is compelling; however, it was not available to the Department at the time this adverse decision was made, and is therefore not relevant for the purposes of determining whether the Department correctly denied the request for prior authorization.
- 6) The Department is correct in its decision to deny prior authorization of Medicaid payment for an MRI of the lumbar spine.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny prior authorization of Medicaid payment for an MRI of the lumbar spine.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of March, 2011.

**Cheryl Henson
State Hearing Officer**