



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

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

March 8, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 3, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny a prior authorization request for durable medical equipment, based on the lack of documented medical necessity.

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.

Medicaid regulations require the prescribing practitioner to submit the appropriate clinical documentation and any other relevant information for requests for durable medical equipment requiring prior authorization review. The requested power wheelchair requires a prior authorization review by the West Virginia Medical Institute to determine medical necessity (West Virginia Bureau for Medical Services Provider Manual, Chapter 506: DME/Medical Supplies, §506.5).

Information submitted at your hearing revealed that there was insufficient information provided to establish medical necessity for the requested durable medical equipment, and prior authorization could not be granted.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny prior authorization for the requested durable medical equipment.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

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

-----,

Claimant,

v.

Action Number: 10-BOR-2413

**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 concluded on March 8, 2011, 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 3, 2011 on a timely appeal, 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 the 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
Virginia Evans, Department representative
Regina Adkins, RN, Department witness

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to deny prior authorization for durable medical equipment for the Claimant.

V. APPLICABLE POLICY:

West Virginia Bureau for Medical Services Provider Manual, Chapter 506: DME/Medical Supplies, §506.2.2; §506.4; §506.5

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Bureau for Medical Services Provider Manual, Chapter 506: DME/Medical Supplies, §506.2.2; §506.4; §506.5
- D-2 InterQual SmartSheets, 2009 – Durable Medical Equipment Criteria, Power Wheelchairs: General
- D-3 WVMI Medicaid DME/Medical Supplies Authorization Request Form
- D-4 Denial notices dated September 23, 2010
- D-5 Reconsideration request (WVMI Medicaid DME/Medical Supplies Authorization Request Form; clinical documentation)
- D-6 Reconsideration denial notices

VII. FINDINGS OF FACT:

- 1) Virginia Evans, representative for the Department's Bureau for Medical Services, testified that, in response to a request (Exhibit D-3) for Durable Medical Equipment (DME) – specifically, a power wheelchair – for the Claimant, denial notices were issued on or about September 23, 2010, to the Claimant, his prescribing practitioner, and the servicing provider (Exhibit D-4). The notice explained the reason for denial as follows, in pertinent part:

The request for a K0823 Invacare Pronto M51 Power Wheelchair, E2363 Batteries, and E0973 Flip Up Ht Adj Armrests cannot be approved, as medical necessity has not been established due to lack of required review information.

WV Medicaid/InterQual criteria requires information regarding the patient's current weight, the medical necessity of the wheelchair, how far the patient can ambulate, if mobility related activities of daily living (MRADL's) can be met with the requested equipment, if mobility needs can/cannot be met with POV, if the patient has evaluated the proposed wheelchair, and can safely/efficiently operate it, and if the home will

accommodate the wheelchair, if continuous wheelchair mobility required for MRADL's, if patient can operate a standard proportional joystick and justification for flip-up height adjustment armrests. This information was not provided, therefore WV Medicaid/InterQual criteria has not been met.

Submitting this information would allow for reconsideration of this request.

- 2) In response to a reconsideration request and supporting documentation (Exhibit D-5), the Department issued a second set of denial notices (Exhibit D-6) on or about September 30, 2010. The notice to the Claimant states, 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.

- 3) Regina Adkins, RN, a nurse employed by West Virginia Medical Institute (WVMi), testified that she received and reviewed the Claimant's initial and reconsideration DME requests. She testified that the initial request was submitted without any clinical documentation. The reconsideration request included a DME request form, medical records submitted for a 2009 DME request, and a 2010 Power Wheelchair Base Assessment. Ms. Adkins testified that neither request met InterQual criteria, and that both the initial and the reconsideration requests were sent to separate physicians for physician review and denied at that level.
- 4) The Claimant did not dispute the lack of information to establish medical necessity. The Claimant offered irrelevant testimony about a previous request for the equipment that was approved, the delivery and unsatisfactory condition of the equipment for his needs, and his unsuccessful attempts to replace the equipment. The Department repeatedly testified that these requests were new requests for durable medical equipment, and did not represent the proper procedure for replacing equipment provided in the past.
- 5) A review of the 2010 Power Wheelchair Base Assessment (Exhibit D-5, pp 8 – 11) revealed some of the information requested in the initial denial notification. The Claimant's weight is 259 ("Physical Exam" section). The ambulation of the Claimant is noted ("Functional Assessment" section) as "approx ft.," "slow," and "poor." It is noted that the Claimant has a mobility limitation ("A," page 8) that significantly impairs his ability to participate in one or more mobility-related activities of daily living (MRADL), that the limitation cannot be addressed with a walker or cane ("B," page 9), that the Claimant cannot self-propel a wheelchair ("C," page 9), and that a power wheelchair will improve the Claimant's ability to participate in MRADL's ("G," page 9). Finally, it is noted that the home is accessible to the wheelchair ("Functional Assessment" section).

Items not found in this assessment, but indicated as missing in the initial denial, include the following: the medical necessity of the wheelchair, the ability of the requested equipment to meet the Claimant's MRADL needs, an evaluation of the equipment by the Claimant including his ability to safely and efficiently operate it, the ability to operate the requested joystick accessory and justification for the requested armrest accessory.

- 6) Policy from the West Virginia Bureau for Medical Services Provider Manual, Chapter 506: DME/Medical Supplies, §506.5 provides the prior authorization requirements for DME, and states:

506.5 PRIOR AUTHORIZATION

For DME services and items requiring prior authorization review for medical necessity by WVMI, it is the responsibility of the prescribing practitioner to submit the appropriate clinical documentation i.e., ICD-9 code(s), all information required on the written prescription (see 506.4, 2nd paragraph, (2) for clarification) and any other relevant information.

- 7) Policy in the same section lists DME items requiring a determination of medical necessity, and includes power wheelchairs, specifically the power wheelchair coded as K0823 requested for the Claimant (Exhibits D-3 and D-5).

- 8) Policy addresses the age of documentation at §506.4(5), as follows:

The prescriber's medical documentation submitted for review must not be more than six (6) months old at the time the prescription is written.

- 9) At §506.2.2, requirements of the DME or Medical Supply providers are listed, and include, in pertinent part:

- (8) assure the item/service provided is appropriate to the member's needs;
- (9) assure the item/service can be used by the member;
- (10) provide an appropriate replacement at no extra cost if the member is unable to use the equipment provided;

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires a prior authorization review to determine medical necessity for the requested DME, and requires clinical documentation to make that determination. The Claimant's initial DME request included no documentation. The denial notification for the initial request included a list of required information to determine medical necessity.

The subsequent reconsideration request included untimely medical documentation that could not be considered, and a more recent, 2010 assessment. The 2010 assessment again failed to provide the information listed by the Department as needed to determine medical necessity. Without this information, the Department was correct to deny prior authorization for the requested power wheelchair.

- 2) The Claimant's testimony regarding the failure of a medical equipment provider to replace equipment approved in 2009 is disregarded as irrelevant to this hearing (and, any such hearing would be between the Claimant and the medical equipment provider, and could not be heard by the Board of Review). It is the responsibility of the DME or Medical Supply provider to replace unusable equipment. When the provider fails to do so, the burden does not fall back on the Department to simply pay for new equipment, and the initial approval does not guarantee subsequent approval at any time in the future. Because the Claimant's current DME request was not determined medically necessary, the Department was correct to deny the request.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of prior authorization for durable medical equipment – specifically, a power wheelchair – for the Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of March, 2011.

Todd Thornton
State Hearing Officer