State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

September 25, 2012

Dear ------:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 19, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization for Medicaid payment of continued psychiatric residential treatment facility.

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 the Medicaid program is based on current policy and regulations. These regulations provide that authorization of Medicaid payment for services rendered in an inpatient psychiatric residential treatment facility must include medical, pharmaceutical or psychiatric professional services, must be consistent with the diagnosis or treatment of the patient's condition and be deemed medically necessary (WV Medicaid Provider Hospital Manual § 510.4).

The information which was submitted at your hearing revealed that failed to establish medical necessity of inpatient psychiatric residential facility services.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny prior authorization of Medicaid payment of continued services at a psychiatric residential treatment facility.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Bureau for Medical Services

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

IN RE: ------,

Claimant,

v. **ACTION NO.: 12-BOR-1968**

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 convened on September 19, 2012. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed June 29, 2012.

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:

------, Witness for Claimant
------, Witness for Claimant
------, Witness for Claimant

Nora McQuain, RN, Director of Facility Based and Residential Care
Linda Kennedy, Program Manager of Facility Based and Residential Care
Emily Proctor, APS Healthcare
Carolyn Duckworth, APS Healthcare
David Walker, MD, Psychiatric Consultant (testified by phone)

Presiding at the Hearing was Kristi Logan, 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's denial of prior authorization of continued payment of psychiatric residential and treatment facility services was correct.

V. APPLICABLE POLICY:

Hospital Services Policy Manual § 510.4, 510.42, 510.4.2.2 and 510.5.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Scheduling Order
D-2 Hearing Request received June 29, 2012, and Request for Additional Information
D-3 Hospital Services Policy Manual § 510.4, 510.42, 510.4.2.2 and 510.5.1
D-4 Initial Denial Notification Letter dated June 25, 2012
D-5 Level One Physician Review Summary dated June 12, 2012
D-6 Peer Review Option and Summary dated June 12, 2012
D-7 Appeal/Reconsideration Decision Notification dated August 10, 2012
D-8 Reconsideration Physician Review Summary dated August 9, 2012
D-9 ------ Master Treatment Plan Review and Progress Notes

VII. FINDINGS OF FACT:

1) A prior authorization request for inpatient psychiatric residential facility treatment (PFRT) was submitted on behalf of Claimant for continued Medicaid payment effective June 9, 2012, at ------ Schools/------. The request was sent to a Level 1 Physician Reviewer on June 9, 2012, for approval. The Physician Review Summary document in pertinent parts (D-5):

> It appears that at the time of admission [Claimant] was given provisional diagnoses of attachment disorder and bipolar disorder. The records now reviewed indicate impulse control disorder. The progress notes through May 2012, including psychiatrist progress notes, indicate stability of mood with only minor fluctuations.
>
> Progress notes report that patient is ready for a Level 2 placement.

> The notes do not indicate a need for continued stay based on medical necessity.
>
> Lower level of care appropriate to meet needs (Care or services could safely be provided in a non-acute setting or lower level of care).

2) Following the initial denial, a peer review was completed on June 21, 2012, between ------, Claimant's therapist at ------ Schools/------ and the Level 1 Physician Reviewer. The Peer Review Summary documents in pertinent parts (D-6):

> Therapist reviewed current situation with [Claimant] indicating that they have had difficulty finding a placement for her. Adoptive parents have been reluctant to place her in state custody for the purpose of finding a facility.
>
> Regardless of the placement issue, the therapist indicates that had a facility been available she would have felt comfortable with patient's discharge last week. A review of all pertinent information finds that patient does not meet the criteria for medical necessity to remain at this level of care.

3) ------ Schools/------ requested a reconsideration of the denial, which was reviewed by independent psychiatric consultant, David Walker, MD. The Reconsideration Physician Review Summary from August 9, 2012, documents in pertinent parts (D-8):

> Documentation suggests that she is being kept because the parents do not want her home. This does not meet requirements for acute medical treatment. After 2 years of hospitalization there seems little reason to continue.

4) Dr. Walker testified there were no changes in Claimant's condition following the initial denial of continued services. Dr. Walker stated Claimant's providers indicated Claimant was not being treated medically or psycho-pharmacologically. Her only medication during her stay at the facility was Seroquel, a sleeping aid, which had been discontinued. Dr. Walker stated there was no reason to continue Claimant's care at ------ Schools/------.

5) Linda Kennedy, Program Manager of Residential Care Facilities, testified several "staffing" with the Kids Aging Out Workgroup have taken place in June 2012 and July 2012 regarding possible placements for Claimant. Ms. Kennedy stated Medicaid will not pay for residential services, only treatment components. At the time of the hearing, the only option regarding Medicaid payment for a Level 2 placement for Claimant would be if Claimant was placed in the Department's custody.

6) ------, Claimant's adopted father, referred to ------'s Master Treatment Plan Review which noted "Problems leading to admission continue despite reasonable therapeutic

efforts to resolve them" (D-9). Claimant's aggressive and sexual behaviors have continued despite her two year stay. ------ agreed that Claimant no longer needs PRTF care and needs a level 2 placement, but does not want to relinquish custody of Claimant to the Department due to her attachment issues.

------ recounted several occasions of Claimant's aggressive behaviors against their family, both prior to her placement at ------ and during her visits home. ------ stated they have special needs children at home and they cannot accommodate Claimant while she continues to have behavior problems.

7) WV Medicaid Provider Hospital Services Manual § 510.4 states:

> An inpatient admission is defined as a person who has been admitted to an inpatient facility for bed occupancy for purposes of receiving inpatient hospital facility services. Inpatient care is covered under the Medicaid Program when it is reasonable and medically necessary for the diagnosis or treatment of an illness or injury, or to improve the functioning of a malformed body part. The services must be consistent with the diagnosis or treatment of the patient's condition, and must be rendered in accordance with standards of good medical practice to be considered medically necessary. Inpatient care which does not contribute meaningfully to the treatment of an illness or injury, or to improve the functioning of a malformed body part, is not covered. Nursing and other related services, such as use of hospital facilities, medical and social services, and transportation furnished by the hospital during an inpatient stay are included in the rate of reimbursement. Covered services are limited to those admissions which are certified by the Bureau's utilization management agency in accordance with the procedures and admission criteria utilized by the agency and approved by BMS. Refer to Attachment I for additional information. Additionally, admissions must be effected upon the written order of a physician who is licensed in the practice of medicine and surgery in the state in which he/she is located, and authorized to admit patients to the facility in which the service is rendered.

8) WV Medicaid Provider Hospital Services Manual § 510.4.2, 510.4.2.1 and 510.4.2.2 states:

> **Psychiatric Inpatient Facilities**
>
> Members who are admitted to distinct part psychiatric units must have an admission diagnosis of a mental illness. If however, during the course of the stay, treatment changes from psychiatric care to physical care, the hospital shall bill the appropriate DRG. These admissions will be subject to audit and cost settlement.

Inpatient Psychiatric Facility Acute Psych Under 21

Services rendered in this setting include inpatient acute care psychiatric services for individuals under 21 (Professional services rendered to members who would be admitted to a psych under 21 facility must be billed separately under the practitioner's provider number. Those charges are not included in the facility's invoice). Such facilities may also render all of the outpatient services for which they meet applicable federal and state regulatory requirements (Outpatient services are reimbursed on a procedure specific fee for service utilizing appropriate HCPCS and CPT codes just as for outpatient services rendered in any other approved setting). Services rendered in the outpatient setting may also include partial hospitalization services in Medicaid approved Partial Hospitalization Programs, as further defined in Attachment 1. These facilities are reimbursed based on costs and are subject to audit and cost settlements. Services rendered to Medicaid members enrolled in an HMO are not the responsibility of the HMO and must be billed to Medicaid. If the Medicaid recipient is a member of the PAAS Program, PAAS PCP referrals are not required.

Inpatient Psychiatric Residential Treatment Facility

Services rendered in this setting are available only to Medicaid eligible individuals under age 21. PRTFs may only render inpatient services, which are inclusive of any medical, pharmaceutical or psychiatric professional services rendered in the facility. PRTFs are not authorized to render outpatient hospital services. These facilities are reimbursed based on costs and are subject to audit and cost settlements.

Services rendered to Medicaid members enrolled in an HMO are not the responsibility of the HMO and must be billed to Medicaid. If the Medicaid recipient is a member of the PAAS Program, PAAS PCP referrals are not required.

VIII. CONCLUSIONS OF LAW:

1) Policy states that authorization of Medicaid payment for services rendered in an inpatient psychiatric residential treatment facility must include medical, pharmaceutical or psychiatric professional services, must be consistent with the diagnosis or treatment of the patient's condition and be deemed medically necessary.

2) Testimony and clinical documentation presented affirms Claimant no longer requires the level of care provided in a psychiatric residential treatment facility. The purpose of the hearing was to establish Claimant's medical necessity of psychiatric residential treatment facility services, and not possible placement issues. Medical necessity for

continued Medicaid payment for Claimant's inpatient psychiatric residential treatment facility services could not be determined.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny prior authorization of Medicaid payment of an inpatient psychiatric residential treatment facility for Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th day of September 2012

_____

Kristi Logan
State Hearing Officer