



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. 3rd Avenue
Williamson, WV 25661**

**Earl Ray Tomblin
Governor**

**Rocco S. Fucillo
Cabinet Secretary**

December 19, 2012

RE: ---- v. WV DHHR
ACTION NO.: 12-BOR-2288

Dear Ms. ----:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

If you believe the decision was reached in error, you may appeal. See the attached explanation of Claimant's Recourse.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Stacy Broce, WV Bureau for Medical Services

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

IN RE: ----,

Claimant,

v.

ACTION NO: 12-BOR-2288

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing took place via telephone conference call on November 19, 2012, on a timely appeal filed October 2, 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 WV Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

----, Claimant

Stacy Hanshaw, RN, WV Bureau for Medical Services, Department's Representative
Paula McComas, RN, West Virginia Medical Institute, Department's Witness

Presiding at the hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing Officer placed all participants under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED

The question to be decided is whether the Department was correct in its decision to deny Medicaid payment for a Magnetic Resonance Imaging (MRI) examination of Claimant's cervical spine.

V. APPLICABLE POLICY:

WVDHHR Medicaid Policy Manual, Chapter 320, Chapter 528 and InterQual Smart Sheets 2012 - Imaging Criteria.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 WV DHHR Medicaid Hospital Services Provider Manual Chapter 528

D-2 InterQual Smart Sheets – 2012 Imaging Criteria

D-3 Notices of Denial from WV Medical Institute (WVMI) dated July 27, 2012

VII. FINDINGS OF FACT:

- 1) WV DHHR Medicaid Hospital Services Provider Manual Chapter 320.3 states in part:

Various in-state and out-of-state services (for example, but not limited to, hospital inpatient care, nursing facility services, etc.) covered by the WV Medicaid Program must be approved in advance before payment can be made. Pre-service review and prior authorization may be required to initiate treatment or extend treatment beyond the amount, scope, or duration that is routinely allowed or was originally approved. It is the responsibility of the provider of the service to secure prior approval before rendering the service.

...

The provider must submit written documentation demonstrating the medical necessity and appropriateness of the proposed treatment.

- 2) WV DHHR Medicaid Hospital Services Provider Manual Chapter 528.5 states in part:

Radiology services provided by Medicaid enrolled providers are considered for reimbursement by West Virginia Medicaid when the services are determined medically necessary to meet the healthcare needs of the member. If the radiology service is a covered service and requires prior approval, the prior authorization is required prior to the service being rendered regardless of the place of service unless medically necessary during an emergent visit at an emergency room. A referring/treating provider must order all covered services.

...

Radiology services eligible for coverage include, but are not limited to:

- Diagnostic X-ray tests and therapeutic procedures
- CT, MRI, MRA and PET Scans
- Radiation oncology/Interventional Radiology
- Bone Density Tests
- Nuclear medicine services
- Ultrasound services provided by radiologists and certain medical specialists
- Radiopharmaceutical and contrast materials
- One interpretation/report per radiology procedure

3) WV DHHR Medicaid Hospital Services Provider Manual Chapter 528.7 (Exhibit D-1) states in part:

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 authorizations. 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 his/her 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 his/her right to a reconsideration of the denial.

- 4) Claimant's physician, ----, M.D., submitted a Medicaid Imaging Authorization Request to the West Virginia Medical Institute (WVMI), requesting pre-authorization of imaging services for Claimant, specifically, an MRI of the cervical spine. Department's Witness testified that this request was made by direct data input through the WVMI internet site. Department's Witness stated that the request indicated Claimant had low back pain and neck pain radiating into her shoulder. Department's Witness stated that there was no information to indicate how Claimant's back and neck problems had been treated. She stated there was no information to indicate Claimant's physician had prescribed a three-week trial of non-steroidal anti-inflammatory drugs (NSAIDs), or a six-week trial of activity modification, including physical therapy.
- 5) Based on the information from the physician's Medicaid Authorization Request Form, the WVMI reviewer completed an imaging criteria screening form, known as InterQual Smart Sheets. (Exhibit D-2.) The nurse reviewer found that there was insufficient information to approve the request. Claimant's Imaging Authorization Request was forwarded to WVMI's physician reviewer, who denied the request for services.
- 6) WVMI sent Notices of Denial (Exhibit D-3) to the Claimant, his physician, and the hospital at which the imaging studies were to be completed, on July 27, 2012. The notices state in pertinent part:

Reason for Denial:

MRI CERVICAL – InterQual criteria was not met; there was no documentation of continued symptoms following [a prescription of] NSAIDs for a period of at least three weeks and activity modification of at least six weeks.

- 7) Department's Representative pointed out the denial letter to the physician (Exhibit D-3) states that if the physician had additional information which could result in the approval of the requested procedure, he or she could submit it for reconsideration to the WVMI within thirteen days of the receipt of the denial. She added that the WVMI received no such additional information.
- 8) Claimant stated that the physician who made her MRI request was ----, M.D. She stated that Dr. ---- was a specialist to whom her general physician had referred her. She stated that Dr. ---- was not as familiar with her health situation as her general physician was, and Dr. ---- did not have a complete collection of her medical records. She stated that her general physician, ----, M.D., had a complete medical history on her, and he would have been able to submit a more complete imaging request which would include the missing medical documentation. Claimant provided no substantive rebuttal to the Department's testimony or evidence.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires pre-authorization of Medicaid coverage for MRI examinations.
- 2) The nurse reviewer at the WVMC completed InterQual Smart Sheets to evaluate the merits of the request by Claimant's physician for an MRI of the cervical spine, and determined that there was insufficient medical information for the approval of the MRI. He forwarded the request to WVMC's physician reviewer, who issued a denial of the requested imaging service.
- 3) The physician's request did not provide enough information required for the reviewer to approve the MRI. It did not document the duration or results of a trial of NSAIDs or activity modification such as physical therapy.
- 4) The medical evidence submitted by the Claimant's physician failed to meet prior authorization criteria; therefore, the Department acted correctly in denying the Claimant's request for Medicaid payment of an MRI examination of the cervical spine.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny the request by Claimant's physician for an MRI of the cervical spine.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of December, 2012.

Stephen M. Baisden
State Hearing Officer