



**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 21, 2012

RE: ---- v. WV DHHR
ACTION NO.: 12-BOR-2341

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 27, 2012, on a timely appeal filed October 10, 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
Keira Ranson, 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 right knee.

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 WVMI Medicaid Imaging Authorization Request Form, dated September 25, 2012

D-4 Notices of Denial from WV Medical Institute (WVMI), dated September 25, 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 Form (Exhibit D-3) to the West Virginia Medical Institute (WVMI) on September 25, 2012, requesting pre-authorization of imaging services for Claimant, specifically, an MRI of the right knee. Item B of the request form, labeled "Imaging Study Requested," asks the medical professional to enter the name and Current Procedural Terminology (CPT) code for the requested imaging study. The person who completed this form has entered "MRI right knee," CPT code number 73721, and in the field labeled, "Diagnosis Related to Study," he or she has entered, "Right knee pain." At the section labeled, "D. Clinical Reasons for Study," it is written, "swelling [and] pain right knee, rule out tear." At the section labeled, "E. Previous Relative Diagnostic Studies," it is written, "X-ray 9-24-12 showed small loose body in suprapatellar joint space, recommends MRI." The section labeled, "F. Related Medications, Treatments, and Therapies," has been left blank. Page 2 of the request is a diagnostic imaging report which summarizes the results of the September 24 x-ray.
- 5) Department's Witness, the WVMI nurse reviewer who evaluated the request, testified that based on the information from the physician's Medicaid Authorization Request Form, she completed an imaging criteria screening form, known as InterQual Smart Sheets. (Exhibit D-2.) She testified that she evaluated Claimant for "Knee complaints, unknown etiology." She stated that the request should document that Claimant suffered from joint pain, and that an x-ray was taken but did not indicate the reason for the pain. She stated that the physician's request and attached information documented this information. She stated that the request should document that Claimant's symptoms continued after a trial of non-steroidal anti-inflammatory drugs, or NSAIDS, for at least three weeks, an attempt at physical therapy for at least four weeks, and an attempt at activity modification for at least four weeks. Department's Witness testified that the request did not document these three criteria. She testified that 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 RIGHT KNEE – The information provided did not meet the clinical indications for the requested study. There was no information provided regarding duration of a physician-directed failed trial of conservative treatment with NSAIDs (for greater than 3 weeks) and physical therapy with activity modification (for greater than 4 weeks). Therefore, InterQual criteria was not met.

- 7) Department's Representative pointed out the denial letter to the physician (Exhibit D-4) 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 she needed the MRI because of the pain in her knee. She stated that her knee problem relates to her field of employment as a certified nursing assistant. She stated that it was hard for her to perform her work due to her knee pain. She stated she wanted to be sure that her knee problem could be corrected before it gets worse so she would not lose her job. She stated that she was working five days per week in spite of her knee problem. She added that she wanted to be sure she would not hurt herself or someone else in doing her job. 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 WVMI completed InterQual Smart Sheets to evaluate the merits of the request by Claimant's physician for an MRI of the right knee, and determined that there was insufficient medical information for the approval of the MRI. She forwarded the request to WVMI'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 trials of NSAIDs, activity modification or 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 right knee.

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 right knee.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21st Day of December, 2012.

Stephen M. Baisden
State Hearing Officer