



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**1027 N. Randolph Ave.**  
**Elkins, WV 26241**

**Earl Ray Tomblin**  
Governor

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

April 18, 2012

-----  
-----  
-----

Dear ---- ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 12, 2012. Your appeal was based on the Department of Health and Human Resources' denial of your request for authorization of incontinence supplies under the West Virginia Medicaid Program.

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.

Current Medicaid regulations state as follows: 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, 2<sup>nd</sup> paragraph, (2) for clarification) and any other relevant information. [West Virginia Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual Chapter 506, Section 506.5]

Information presented at the hearing reveals that documentation submitted by your physician was insufficient to approve Medicaid authorization for incontinence supplies.

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny Medicaid authorization for incontinence supplies.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Alva Page III, Esq., Bureau for Medical Services

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

**IN RE: ---- ----,**

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-792**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF THE 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 telephonically on April 12, 2012 on a timely appeal filed February 22, 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:**

---- ----, Claimant

---- ----, Claimant's daughter

Virginia Evans, HHR Specialist, Bureau for Medical Services, WVDHHR

Kerry Frame, RN, Nurse Reviewer, West Virginia Medical Institute

Presiding at the hearing was Pamela Hinzman, State Hearing Officer and a member of the State

Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Agency complied with policy in denying the Claimant's request for Medicaid authorization of incontinence supplies.

#### **V. APPLICABLE POLICY:**

West Virginia Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual Chapter 506, Section 506.5

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 West Virginia Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual Chapter 506, Section 506.5
- D-2 Adult/Pediatric Incontinence Guidelines
- D-3 WVMi Medicaid DME/Medical Supplies Authorization Request Form submitted by ----, M.D.
- D-4 Notices of Denial for Durable Medical Services dated January 28, 2012 sent to Claimant, ----, and ----Drug Store
- D-5 Reconsideration request submitted by ---- (received on February 9, 2012)
- D-6 Notices of Preadmission Reconsidered Determination dated February 9, 2012, sent to Claimant, ----, and ----Drug Store

##### **Claimant's Exhibits:**

- C-1 Aged and Disabled Waiver Program Member Assessment, Service Plan and Plan of Care dated October 6, 2011
- C-2 List of physicians who have treated Claimant in West Virginia and Maryland
- C-3 Letter to Bureau for Medical Services Appeals Section from Claimant dated February 16, 2012
- C-4 Page 3 of 8 of Claimant's September 7, 2011 Pre-Admission Screening form

#### **VII. FINDINGS OF FACT:**

- 1) In January 2012, the Claimant's physician, ----, M.D., submitted a West Virginia Medical Institute (WVMi) Medicaid DME/Medical Supplies Authorization Request Form (D-3) to the Department, requesting Medicaid authorization of adult protective undergarments for the Claimant.
- 2) On January 28, 2012, the Claimant, ----, and ----Drug Store were sent Notices of Denial for Durable Medical Services (D-4) which state, in pertinent part:

A request for prior authorization was submitted for durable medical services. Based on the medical information provided, the request has been denied.

**Reason for Denial:** Documentation provided does not indicate medical necessity- specifically:

The request for A4520 Incontinence Garments cannot be approved, as medical necessity cannot be established.

WV Medicaid criteria requires a primary diagnosis of urinary and/or fecal incontinence and a secondary diagnosis from the Incontinence Guidelines to explain the cause of the incontinence.

The documentation provided did not contain an approvable secondary diagnosis from the Incontinence Guidelines, therefore, WV Medicaid criteria has not been met.

- 3) The Claimant filed a request for reconsideration (D-5), however, WVMI affirmed the initial denial in a letter dated February 9, 2012 (D-6).
- 4) ----, the Claimant's daughter, testified that the Claimant suffered a gunshot wound in 1977 that resulted in his constant dribbling of urine. ---- stated that her father was authorized to receive incontinence garments from Medicaid in 2010 and 2011, and does not understand why authorization has been denied with the latest request. She presented Exhibits C-1 and C-4 to demonstrate the Claimant's documented history of incontinence. Kerry Frame, RN, Nurse Reviewer with WVMI, indicated that information submitted by ---- was insufficient for authorization of the incontinence products, as the documentation failed to list a secondary diagnosis to explain the underlying cause of the incontinence. The Claimant's condition must meet diagnosis criteria in Adult/Pediatric Incontinence Guidelines (D-2). Virginia Evans, HHR Specialist with the Bureau for Medical Services, indicated that the physician could submit a new request for authorization and provide the additional information required by the Department in regard to the Claimant's secondary diagnosis.
- 5) West Virginia Bureau for Medical Services Durable Medical Equipment/Medical Supply Manual Chapter 506, Section 506.5 (D-1), states:

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, 2<sup>nd</sup> paragraph, (2) for clarification) and any other relevant information.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that the Bureau for Medical Services must grant prior authorization before Medicaid payment of incontinence supplies can be approved.
- 2) In conjunction with this provision, the Claimant's physician submitted a WVMH Medicaid DME/Medical Supplies Authorization Request Form in January 2012. However, neither the original request nor the reconsideration request provided a secondary diagnosis that met Adult/Pediatric Incontinence Guidelines. Therefore, the Department's denial of authorization for incontinence supplies is valid.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the Claimant's request for authorization of incontinence supplies through the West Virginia Medicaid Program.

### **X. RIGHT OF APPEAL:**

See Attachment.

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 18th Day of April, 2012.**

---

**Pamela L. Hinzman**  
**State Hearing Officer**

**CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION**  
**For**  
**Public Assistance Hearings,**  
**Administrative Disqualification Hearings, and**  
**Child Support Enforcement Hearings**

**A. CIRCUIT COURT**

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

**B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

If you believe you have been discriminated against because of race, color, national origin,

age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

### **C. THE UNITED STATE DEPARTMENT OF AGRICULTURE**

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.

IG-BR-46 (Revised 12/05)