



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington St., West
Charleston, West Virginia 25313**

**Earl Ray Tomblin
Governor**

**Rocco S. Fucillo
Cabinet Secretary**

February 22, 2013

RE: ---- v. WV DHHR
ACTION NO.: 12-BOR-2654

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,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Stacy Broce, BMS, WVDHHR

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

IN RE: ----,

Claimant,

v.

Action No.: 12-BOR-2654

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

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is the decision 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 on February 14, 2013, on a timely appeal filed December 5, 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

Virginia Evans, HHR Specialist, Bureau for Medical Services, Department Representative
Jenny Craft, RN, West Virginia Medical Institute, Department Witness

Presiding at the hearing was Donna L. Toler, 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 Department was correct in its decision to deny Medicaid authorization for physical therapy.

V. APPLICABLE POLICY:

WVDHHR Occupational/Physical Therapy Manual Chapter 515, 515.3 Attachment 1, 515.4 Attachment 2, 515.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVDHHR Occupational/Physical Therapy Manual Chapter 515
- D-2 WVMi Screening Criteria for Physical Therapy, Sections II and III
- D-3 Application for Prior Authorization and attachments from ----, M.D. and ----, P.T.
- D-4 Notices of Denial for Physical Therapy Services from WVMi to the Claimant, Dr. ---- and Dr. ----

Claimant's Exhibits:

- C-1 Prescription for shoe lift from ----, D.O., dated 01/03/2013
- C-2 Patient Admission Form dated 12/26/2012

VII. FINDINGS OF FACT:

- 1) The Claimant's medical provider submitted a Physical/Occupational Therapy Prior Authorization Request Form (Exhibit D-3) to West Virginia Medical Institute (WVMi) on or about September 6, 2012, requesting pre-authorization for twelve (12) physical therapy treatments.
- 2) WVMi sent Notices of Denial for Physical Therapy Services (Exhibit D-4) to the Claimant, ----, P.T. and ----, M.D., on September 10, 2012, which state, in part:

A request for prior authorization was submitted for physical therapy 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 continued physical therapy from 09072012 was denied due to not meeting WV Medicaid criteria.

The documentation provided reflected a condition that is at maintenance level for a chronic condition. In addition, there was no current signed physicians [sic] order submitted.

- 3) Department's Witness, Jenny Craft, RN, (Nurse Craft) testified that a request for physical therapy prior authorization was received on September 6, 2012, and that many of the fields on the form were not completed. Nurse Craft testified that the documentation and attachments received from the physician's office included a nurse's review but no signed physician's order for the requested physical therapy. Nurse Craft testified that the attached physician's reports from Dr. ---- and Dr. ----'s offices indicated the Claimant slipped and fell in the summer of 2010 and a goal was established for the Claimant to be able to return to walking. Nurse Craft testified that documentation provided suggested the purpose of the requested physical therapy was to provide a maintenance level of care as a result of the Claimant's injuries which resulted from a slip and fall accident in the summer of 2010. Authorization forms for maintenance level treatment and lacking a physician's signature would not qualify for Medicaid authorization.
- 4) The Claimant testified that she needs the physical therapy as she cannot walk and her symptoms are progressively worsening. She wishes to regain her independence through additional therapy sessions. The Claimant provided a prescription for a shoe lift dated January 13, 2013, (Exhibit C-1) and a patient admission form from a spinal consultation in the State of Tennessee, dated December 26, 2012 (Exhibit C-2), as evidence of her need for physical therapy due to back pain and difficulty walking.

The Department's Representative, Virginia Evans, testified that the Claimant is limited to twenty (20) physical therapy sessions per calendar year and that while she has used the allowable sessions for the 2012 calendar year, she would be medically eligible to request an additional twenty (20) sessions beginning in calendar year 2013.

- 5) Documents (Exhibits C-1 and C-2) presented by the Claimant were not considered or made available to the Department at the time of their decision, and are therefore, not relevant to the matter being addressed.
- 6) WVDHHR Occupational/Physical Therapy Manual Chapter 515, Section 515.3 (Exhibit D-1) addresses covered therapy services and states, in pertinent part:

As circumstances permit, the therapist must be involved in patient education, including but not limited to, teaching the patient exercise, manipulation, and how to use devices for their own rehabilitation...

IMPORTANT: *The fact that a provider prescribes, recommends or approves medical care does not in itself make the care medically necessary or a covered service.*

- 7) WVDHHR Occupational/Physical Therapy Manual Chapter 515.6 (Exhibit D-1) states that West Virginia Medicaid does not cover occupational/physical therapy services in excess of 20 visits (per calendar year) provided for chronic conditions, such as arthritis, cerebral palsy, and developmental delay.
- 8) WVMH Screening Criteria for Physical Therapy, Section II (Exhibit D-2), defines physical therapy maintenance programs and reads, in part:

The repetitive services required to maintain function generally do not involve complex and sophisticated physical therapy procedures, and, consequently, the judgement [*sic*] and skill of a qualified physical therapist are not required for safety and effectiveness. Maintenance programs would not be considered for payment beyond 20 sessions, as it would be viewed as a chronic condition.

Section III of the Screening Criteria outlines exclusions to physical therapy and defines a chronic condition as one lasting six months or longer. The section also indicates that physical therapy that is provided without a prescription from a physician is excluded from coverage.

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that West Virginia Medicaid covers neither occupational/physical therapy services without a signed physician's prescription with diagnosis, nor occupational/physical therapy services in excess of twenty (20) visits (per calendar year) for chronic conditions. A chronic condition is defined as one lasting six (6) months or longer.
- 2) Whereas the documentation submitted by the Department reflected that the request for physical therapy was in excess of twenty (20) sessions for the calendar year 2012 for the treatment of a chronic condition and whereas the request did not include a signed physician's prescription with diagnosis, the Department acted correctly in denying Medicaid authorization for physical therapy services.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the Department's decision to deny Medicaid authorization for physical therapy services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of February, 2013.

**Donna L. Toler
State Hearing Officer
Member, Board of Review**