



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**Board of Review
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-0955 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

October 26, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-2007

Dear Mr. [REDACTED]

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Angela Signore, DHHR / Anita Ferguson, DHHR

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2007

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

Respondent.

DECISION OF STATE HEARING OFFICER

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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on August 2, 2018 and reconvened on August 21, 2018, on an appeal filed July 11, 2018.

The matter before the Hearing Officer arises from the April 27, 2018 decision by the Respondent (through its contract firm) to deny Medicaid prior authorization for inpatient services.

At the hearing, the Respondent appeared by Anita Ferguson, Stephanie Smith, and Alva Page. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|------------------------------------------------------------------------------------------|
| D-1 | BMS Provider Manual (excerpt)
Chapter 510 Hospital Services
§510.5.1 |
| D-2 | Aetna Managed Care Member Handbook (excerpt)
Section 6 – General Services Not Covered |
| D-3 | Correspondence and Hearing request from Appellant
Date received: July 11, 2018 |

- D-4 Letter from [REDACTED], RN, dated May 4, 2018
Medical documentation regarding the Appellant
- D-5 Documentation received from The Health Plan
- D-6 Notice of Decision from Respondent's contract firm
Notice date: April 27, 2018
- D-7 Appeal request documentation
- D-8 Notice from Respondent's contract firm, dated May 24, 2018

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant was a recipient of Medicaid.
- 2) The Respondent provides Medicaid services to the Appellant through a contract with a Managed Care Organization (MCO).
- 3) The Appellant requested prior authorization for a medical procedure to remove blocked blood vessels, which is designated by a Healthcare Common Procedure Coding System (HCPCS) number of 37248.
- 4) By notice dated April 27, 2018, the Respondent's contracted MCO advised the Appellant that the requested procedure was denied. (Exhibit D-6)
- 5) This notice reads, in pertinent part, "This letter is to let you know we will not pay for code 37248, which is a procedure to open up a blocked blood vessel. We do not cover this requested code. See your Member Handbook: Section 6 – General Services not covered: Health services prohibited by law or regulation." (Exhibit D-6)
- 6) The "Member Handbook" from the Respondent's contracted MCO indicates that "health services prohibited by law or regulation" are not covered. (Exhibit D-2)

APPLICABLE POLICY

The Bureau for Medical Services Provider Manual, Chapter 510 – Hospital Services, addresses prior authorization at §510.5.1, and reads, "All inpatient admissions, with the exception of those related to labor and delivery, are subject to medical necessity review and certification of admission..."

At §519.16.3, the policy for Practitioner Services reads, “The BMS RBRVS RVU file lists non-covered services,” and additionally notes, “Non-covered services are not eligible for a DHHR Fair Hearing or a Desk/Document review.” The supplemental “RBRVS RVU” file lists HCPCS code 37248 as a non-covered service.

DISCUSSION

The Appellant has appealed the decision of the Respondent’s contract firm to deny prior authorization for a medical procedure to open a blocked blood vessel. The Respondent must prove, by preponderance of the evidence that this decision was correct.

The Respondent’s contract firm denied the Appellant’s requested procedure because it was “prohibited by law or regulation.” The regulation in question was a list of non-covered services included in the Respondent’s BMS Policy Manual. The Board of Review is unable to modify existing policy or create policy exceptions.

The Respondent was correct to deny the Appellant’s requested service as non-covered.

CONCLUSION OF LAW

Because the Appellant requested a Medicaid service designated as “non-covered” by Medicaid program policy, the Respondent’s contract firm was correct to deny payment for the procedure.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent’s decision to deny Medicaid prior authorization for inpatient services.

ENTERED this ____ Day of October 2018.

Todd Thornton
State Hearing Officer