



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County DHHR
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

August 17, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1836

Dear Ms. [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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Bureau for Medical Services

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

████████████████████,

Appellant,

v.

Action Number: 21-BOR-1836

**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 17, 2021, with an appeal filed on May 10, 2021.

The matter before the Hearing Officer arises from the April 22, 2021, decision by the Respondent to deny prior authorization for Medicaid payment of Laparoscopy, Surgical Ablation of Uterine Fibroids (procedure code 58674).

At the hearing, the Respondent appeared by Anita Ferguson, Bureau for Medical Services. Appearing as witnesses for the Respondent were Richard Day and Alva Page with Aetna Better Health of West Virginia. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, PRIA Healthcare. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Letter of Preservice Authorization Appeal dated May 24, 2021 and Letter of Medical Necessity/Prior Authorization dated April 15, 2021
- D-2 Notice of Denial dated April 22, 2021
- D-3 Notice of Denial dated May 13, 2021
- D-4 Aetna Better Health of WV 2021-2022 Member Handbook
- D-5 Aetna Meeting Minutes dated May 13, 2021
- D-6 Aetna Authorization Notes dated April 15-21, 2021

D-7 Clinical Encounter Summary dated March 8, 2021 and Pelvic Ultrasound Examination dated March 8, 2021

Appellant's Exhibits:

- A-1 Letter of Preservice Authorization Appeal dated May 24, 2021
- A-2 Authorized Representative Request
- A-3 Notice of Denial dated May 13, 2021
- A-4 Letter of Medical Necessity/Prior Authorization dated April 15, 2021
- A-5 Clinical Encounter Summary dated March 8, 2021 and Pelvic Ultrasound Examination dated March 8, 2021
- A-6 Publication Summary for Laparoscopic Radiofrequency Ablation of Uterine Fibroids updated February 25, 2020

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) A request for prior authorization for Medicaid payment of Laparoscopy, Surgical Ablation of Uterine Fibroids (procedure code 58674) was submitted on April 15, 2021 (Exhibit D-1).
- 2) On April 22, 2021, the Respondent notified the Appellant that the request for prior authorization had been denied as procedure code 58674 was a service that was not covered by Aetna Better Health of West Virginia (Exhibit D-2).
- 3) The Appellant appealed the April 22, 2021, denial and the prior authorization request was reviewed by Aetna Better Health's appeal committee on May 13, 2021 (Exhibit D-5).
- 4) The Respondent notified the Appellant on May 13, 2021 that the denial of prior authorization for procedure code 58674 was upheld (Exhibit D-3).

APPLICABLE POLICY

Bureau for Medical Services Provider Manual §160 states experimental and research/investigative services or drugs are not covered by Medicaid.

Bureau for Medical Services Provider Manual §510.8.1 states certain surgeries performed in place of service 22 (Outpatient Hospital) and 24 (Ambulatory Surgical Center) will require prior authorization, effective February 15, 2006. The selected surgeries that require prior authorization through the BMS review contractor are listed in Attachment 3 along with the PA form that may be utilized.

Bureau for Medical Services Provider Manual Chapter 510 Attachment 3 – Outpatient Surgery Prior Authorization Requirements – lists the CPT/HCPCS codes for covered outpatient surgical procedures covered by West Virginia Medicaid. Procedure code 58674 is not listed as a covered Medicaid outpatient surgery.

Aetna Better Health Member Handbook – Services Not Covered – states all service codes determined by the Bureau for Medical Services as not covered cannot be paid by Aetna Better Health.

DISCUSSION

Pursuant to policy, services and procedures determined to be experimental or investigative are not covered by Medicaid. Outpatient surgical procedures require prior authorization to determine if the procedure is medically necessary.

A request for prior authorization for Medicaid payment for Laparoscopy, Surgical Ablation of Uterine Fibroids, procedure code 58674, was submitted on behalf of the Appellant on April 15, 2021. The Respondent denied the request as procedure code 58674 has been deemed by the Respondent's Bureau for Medical Services as investigative and/or experimental and is therefore not a covered procedure for Medicaid payment.

The Appellant testified that she experiences pain and discomfort from the uterine fibroids and has been recently diagnosed with Type II Diabetes. Due to the recent diagnosis of Diabetes, the Appellant argued that the surgical alternative to the Ablation procedure would be a risk to her health.

The Board of Review lacks the authority to change or make exceptions to policy. Whereas the requested outpatient procedure, Laparoscopy, Surgical Ablation of Uterine Fibroids, is a non-covered service for Medicaid payment, the denial of prior authorization is affirmed.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, services and procedures determined to be experimental or investigative are not covered by Medicaid.
- 2) The Respondent's Bureau for Medical Services has deemed the requested service, Laparoscopy, Surgical Ablation of Uterine Fibroids, as experimental or investigative.
- 3) The denial of prior authorization of Laparoscopy, Surgical Ablation of Uterine Fibroids as a non-covered service is upheld.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny prior authorization for Medicaid payment of Laparoscopy, Surgical Ablation of Uterine Fibroids.

ENTERED this 17th day of August 2021.

Kristi Logan
Certified State Hearing Officer