



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton WV 26354

October 3, 2005

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 6, 2005. Your hearing request was based on the Department of Health and Human Resources' denial of your request for Medicaid coverage for a motorized wheelchair.

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.

Eligibility for the Medicaid Program is determined based on current regulations. Some of these regulations state as follows: Unless otherwise specified WV Medicaid follows Medicare DMERC, Region B criteria for review of medical necessity for covered services/items. These directives indicate as follows: A power wheelchair is provided when all the following criteria are met: the patient's condition is such that without the use of a wheelchair the patient would otherwise be bed or chair confined, and; the patient's condition is such that a wheelchair is medically necessary and the patient is unable to operate a wheelchair manually, and; the patient is capable of safely operating the control for a power wheelchair; a patient who requires a power wheelchair usually is totally nonambulatory. (Medicaid Program Manual (Chapter 500 § 503)

The information which was submitted at the hearing failed to support a finding that you meet the criteria as set forth above.

It is the decision of the State Hearing Examiner to uphold the determination of the Agency denying Medicaid coverage for a motorized wheelchair as set forth in the February 22, 2005 notification.

Sincerely,

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
Bureau for Medical Services, Patricia Woods

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v.

Action Number 05-BOR- 5294

West Virginia Department of Health & Human Resources,
Respondent.

DECISION OF THE STATE HEARING EXAMINER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on October 3, 2005 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 originally convened on July 6, 2005 on a timely appeal filed March 22, 2005. All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources. 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 of Medical Services is responsible for the development of regulations to implement Federal and State requirements for the program. The Department of Health & Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

_____, claimant

_____, father of claimant and POA

Patricia Woods, RN Administrator, Bureau for Medical Services. (by phone)

Virginia Evans, Claims Representative, Bureau for Medical Services (by phone)

Paula Clark, West Virginia Medical Institute (by phone)

Oretta Keeney, West Virginia Medical Institute (by phone)

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in denial of the claimant's request for Medicaid coverage for a motorized wheelchair?

V. APPLICABLE POLICY:

(West Virginia) Medicaid Program Manual Chapter 500 § 503

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 - Certificate of Medical Necessity, 2/14/05
- D-2 - WVMI/DME Report, 2/15/05
- D-3 - Notification of denial, 2/16/05
- D-4 - Request for reconsideration dated 2/28/05 (package consisting of a statement from Dr. Ketchem 2/22/05 and a denial determination dated 3/11/04)
- D-5 - Notification of denial, 3/14/05
- D-6 - Medical Policy
- C-1 - Medical information, Broaddus Hospital, 7/11/05, received by examiner 7/15 and Faxed to BMS 7/25/05

VII. FINDINGS OF FACT:

1) The claimant was notified in a letter dated February 16, 2005 of the denial of her February 14 request for a motorized wheelchair. A request for reconsideration was submitted February 28, 2005 and notification of denial provided March 14, 2005. A hearing was requested March 22, 2005 regarding denials. Hearing package received by examiner from BMS June 3, 2005 and a hearing was convened July 6, 2005.

2) Exhibits as noted in Section VI above were accepted during the hearing. As agreed by all parties claimant provided exhibit C-1 by July 15, 2005, which was then made available the bureau on July 25, 2005.

3) Testimony was heard from the individuals noted in section III above

4) Testimony from the agency reveals that the denial was based on a lack of medical necessity. The agency points out that carpal tunnel syndrome is a treatable condition and therefore is insufficient reason for medical necessity of a motorized wheelchair. Medicaid policy concerning a wheelchair follows that of Medicare as found in exhibit D-6.

5) Testimony provided on behalf of the claimant indicates that due to carpal tunnel and cerebral palsy the claimant is limited in the distance she can go with forearm crutches. She needs assistance to maneuver a manual wheelchair other than short distances. She cannot get up much of a ramp without assistance.

6) Exhibit D-1 (Manual/Power Wheel Chair Form) reveals that the claimant can walk short distances using forearm crutches and uses a manual wheelchair. Carpal tunnel symptoms are worsening.

7) Medicaid Program Manual (Chapter 500 § 503 states in part – unless otherwise specified, WV Medicaid follows Medicare DMERC, Region B criteria for review of medical necessity for covered services/items.

8) Exhibit D-6, DMERC Medical policy states in part: A power wheelchair is provided when all the following criteria are met:

1. The patient's condition is such that without the use of a wheelchair the patient would otherwise be bed or chair confined, and;
2. The patient's condition is such that a wheelchair is medically necessary and the patient is unable to operate a wheelchair manually, and;
3. The patient is capable of safely operating the control for a power wheelchair.

A patient who requires a power wheelchair usually is totally nonambulatory and has severe weakness of the upper extremities due to a neurologic, muscular, or cardiopulmonary disease/condition.

VIII. CONCLUSIONS OF LAW:

1) Policy provides that the agency will utilize Medicare directives when evaluating Medicaid eligibility for durable medical equipment (DME). This includes motorized wheelchairs. Testimony reveals that the agency properly utilized Medicare (DMERC) criteria in their assessment.

2) Policy (DMERC) directs that a power wheelchair can be authorized when without a wheelchair the individual would be bed or chair confined and such individual would be unable to operate a wheelchair manually. Evidence reveals the claimant has the ability to ambulate, with some difficulty, by use of crutches and a manual wheelchair. She therefore cannot meet this criteria.

3) Policy reveals that eligible individuals are usually totally nonambulatory. Evidence indicates that the claimant continues to have the ability to independently ambulate.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency as set forth in the March 14, 2005 notification.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 3rd Day of October, 2005.

RON ANGLIN
State Hearing Examiner