May 28, 2026

[redacted]

RE: [redacted] v. DoHS/BMS
ACTION NO.: 26-BOR-1738

Dear [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 Human Services. These same laws and regulations are used in all cases to ensure 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: Recourse to Hearing Decision
Form IG-BR-29

cc: Kristen Boustany, Bureau for Medical Services

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL**
**BOARD OF REVIEW**

[redacted],

**Appellant,**

**v.** **Action Number: 26-BOR-1738**

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES**
**BUREAU FOR MEDICAL SERVICES,**

**Respondent.**

## DECISION OF STATE HEARING OFFICER

## INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [redacted] This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This fair hearing was convened on May 13, 2026.

The matter before the Hearing Officer arises from the March 18, 2026, decision by the Respondent to deny prior authorization for Medicaid payment for Nexium.

At the hearing, the Respondent appeared by Kristen Boustany, clinical pharmacist with the Bureau for Medical Services. The Appellant was self-represented. The witnesses were placed under oath, and the following documents were admitted into evidence.

**Department's Exhibits**:

D-1 Notice of Denial dated March 18, 2026
D-2 Bureau for Medical Services Pharmacy Manual §§518.1.1 and 518.2
D-3 Preferred Drug List Criteria
D-4 Claim Notes, Existing Prior Authorization Screen Print, Medical Records, and Pharmacy Records

**Appellant's Exhibits:**

A-1 Prescription Profile from [redacted] Pharmacy from 2008 - 2026

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 the prescription drug Nexium was submitted by the Appellant's physician on or around March 12, 2026 (Exhibit D-4).

2) The Respondent sent a notice of denial on March 18, 2026, advising the Appellant that prior authorization had been denied as Nexium has non-preferred drug status and criteria requires a 60-day trial of omeprazole and pantoprazole at the highest recommended dose with a 30-day trial of an H2 antagonist at the highest maximum dose (Exhibit D-1).

## APPLICABLE POLICY

Bureau for Medical Services Provider Manual Chapter 518 – Pharmacy Services – explains eligibility for prescription medications covered by WV Medicaid:

**518.1.1 Preferred Drug List (PDL)**

The West Virginia Preferred Drug List (PDL) is a list of medications recommended to the BMS by the West Virginia Medicaid Pharmaceutical and Therapeutics (P&T) Committee and approved by the U.S. Secretary of the Department of Health and Human Resources. The P&T Committee is composed of actively practicing physicians, pharmacists, a nurse practitioner, and a physician's assistant. The P&T Committee meetings are held a minimum of three times per year and are open to the public. The drugs that are designated as "preferred" have been selected for their clinical significance and overall cost efficiencies. All Medicaid-covered drugs noted as "non-preferred" continue to be available through the prior authorization process. The PDL only contains drugs from certain drug classes. Some classes of drugs will not be reviewed for preferential agents because there are no, or limited cost savings associated with these classes. Drugs that meet the criteria for coverage and have no preferred status are considered covered drugs. The PDL is updated at minimum annually and as needed. Newly released drugs in classes that are included in the PDL will be considered non-preferred until the new drug has been reviewed.

**518.5 Drug Utilization Review (DUR)**

The Omnibus Budget Reconciliation Act (OBRA '90) required that states establish a DUR program which consists of prospective and retrospective components as well as components to educate physicians and pharmacists on common drug therapy problems and assessments of whether usage complies with predetermined standards. In order to meet the requirements of the statute, the DUR program must ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical results. The two primary objectives of DUR systems are to improve quality of care and to assist in containing health care costs. The establishment of a DUR Board was required by OBRA '90. This Board consists of local pharmacists, physicians, and other healthcare providers from around the state. The Board is charged with making recommendations for educational interventions to prescribers and pharmacists to identify and reduce, for both

providers and patients, the frequency of patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care.

Bureau for Medical Services Preferred Drug List and Prior Authorization (PA) Criteria reads in pertinent part:

- Unless otherwise specified, the listing of a particular brand or generic name includes all legend forms of that drug. A current listing of all covered over the counter (OTC) products may be found at the BMS Website by clicking the hyperlink.
- Prior authorization (PA) of any non-preferred agent requires that class criteria, and in some cases drug-specific criteria, be followed unless documentation is provided indicating that the use of these agents would be medically contraindicated. "Exceptions" to the PA criteria should be detailed on the PA form for consideration; these include relative contraindications, such as potential drug-drug interactions, adverse effects, intolerance, and drug-disease interactions.
- Required trials of preferred agents are defined as "failed" or otherwise satisfied only when efficacy has not been observed despite patient adherence to a dose and duration which should have produced therapeutic effects.
- Unless otherwise specified, all requests to "grandfather" existing drug therapy will require clinical reasoning from the prescriber detailing why the patient cannot be transitioned to a preferred agent from the Medicaid PDL. Please note that this requirement includes therapy that may have been previously preferred on the Medicaid PDL but has since changed to non-preferred status.
- The use of pharmaceutical samples will not be considered when evaluating the members' medical condition or prior prescription history for drugs that require prior authorization.
- Other drug utilization review restrictions may apply, including, but not limited to, therapeutic duplication, drug-drug interaction, ingredient duplication, etc.
- Quantity limits may apply. Refer to the Drug Limits list on the Bureau for Medical Services (BMS) website by clicking the hyperlink.
- Unless otherwise indicated, non-preferred combination products require medical reasoning beyond convenience or enhanced compliance as to why the clinical need cannot be met with a preferred agent or combination of preferred single-ingredient agents containing the same, or similar, active ingredient.

**PROTON PUMP INHIBITORS (PPI) CLASS PA CRITERIA**: Non-preferred agents require 60-day trials of both omeprazole (Rx) and pantoprazole at the maximum recommended dose, inclusive of a concurrent 30-day trial at the maximum dose of an H2 antagonist before they will be approved, unless one of the exceptions on the PA form is present.

| PREFERRED AGENTS | NON-PREFERRED AGENTS |
|---|---|
| omeprazole (Rx) | esomeprazole magnesium |
| pantoprazole tablets | NEXIUM (esomeprazole) |

## DISCUSSION

Pursuant to policy, prescriptions drugs with non-preferred status require prior authorization for Medicaid payment. Prior authorization of any non-preferred agent requires that class criteria, and in some cases drug-specific criteria, be followed unless documentation is provided indicating that the use of these agents would be medically contraindicated.

The Appellant's physician submitted a request for prior authorization of the prescription drug Nexium (esomeprazole). Prior authorization criteria specific to Nexium require a 60-day trial of both prescription omeprazole (Prilosec) and pantoprazole at the maximum recommended dose, inclusive of a concurrent 30-day trial at the maximum dose of an H2 antagonist, unless one of the exceptions on the prior authorization form is present. The Respondent denied the prior authorization request for Nexium as the documentation submitted failed to document the Appellant's use of prescription omeprazole at the maximum dose for at least 60 days.

The Respondent's witness, Kristen Boustany, testified that the Appellant met the prior authorization criteria of a 60-day trial of pantoprazole at the highest recommended dose and a 30-day trial of an H2 antagonist. However, Ms. Boustany stated that according to the documentation provided, the Appellant was prescribed 40 milligrams of omeprazole daily and not the required maximum dose of 80 milligrams daily. Ms. Boustany contended that for Nexium to be approved, the Appellant would need to take 80 milligrams of omeprazole daily, concurrently with pantoprazole and an H2 antagonist at the maximum recommended dose.

Whereas the documentation submitted failed to show a 60-day trial of both prescription omeprazole and pantoprazole at the maximum recommended dose, inclusive of a concurrent 30-day trial at the maximum dose of an H2 antagonist the Respondent's denial of prior authorization of Nexium is affirmed.

## CONCLUSIONS OF LAW

1) Pursuant to policy, prescriptions drugs with non-preferred status require prior authorization for Medicaid payment.

2) Prior authorization criteria specific to Nexium require a 60-day trial of both prescription omeprazole and pantoprazole at the maximum recommended dose, inclusive of a concurrent 30-day trial at the maximum dose of an H2 antagonist.

3) The documentation submitted failed to confirm the Appellant's use of omeprazole at the maximum recommended dose for at least 60 days.

4) The Appellant does not meet the prior authorization criteria for the approval of Nexium.

## DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's denial of prior authorization for Medicaid payment of Nexium for the Appellant.

**ENTERED this 28th day of May 2026.**

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**Kristi Logan**
**Certified State Hearing Officer**