



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
416 Adams St.
Fairmont, WV 26554

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 19, 2016



RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-1655

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,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

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

cc: Erin Nelson, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1655

**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 May 18, 2016, on an appeal filed April 6, 2016.

The matter before the Hearing Officer arises from the January 19, 2016 decision by the Respondent to terminate Appellant's benefits and services provided through the Medicaid Aged and Disabled Waiver Program.

At the hearing, the Respondent appeared by Economic Services Supervisor, Stacy Beegle. Appearing as a witness for the Respondent was Economic Services Worker, Erin Nelson. The Appellant was represented by her son, ██████████ and her daughter-in-law, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of required Medicaid review dated 12/14/15
- D-2 Notice of benefit closure dated 1/19/16
- D-3 WV Income Maintenance Manual §1.2.B.2
- D-4 Case Comments for the period 3/9/16 through 4/6/16
- D-5 E-mail correspondence initiated by Erin Nelson on 3/18/16 - concluded on 4/7/16

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) On December 14, 2015, Appellant was notified (D-1) that her Medicaid (Aged and Disabled Waiver Program) benefits were due for a review by January 31, 2016. The cover letter advises that the form must be completed and mailed to Respondent's office, or completed online at wvinroads.org, by January 1, 2016. The notice goes on to provide the Respondent's local office telephone number if an appointment/in-person review is preferred.
- 2) On January 19, 2016, Appellant was notified (D-2) that her Medicaid benefits were being closed and that she would receive her last benefit when her certification period expired in January 2016.
- 3) On March 18, 2016, Appellant's daughter-in-law, [REDACTED], telephoned Erin Nelson, an Economic Services Worker assigned to manage Appellant's benefits, to inquire why Appellant's case was closed (D-4). Ms. Nelson's e-mail (D-5) on March 18, 2016 to the Patricia Nisbet, Aged and Disabled Waiver Program Manager, Bureau for Medical Services, states – "[REDACTED] daughter-in-law called as her MALH [Medicaid] closed on 1/31/16. [REDACTED] misplaced review and [REDACTED] [sic] is wondering if we can get her Back [sic] on the program. Is this possible?"
- 4) Testimony and documentation proffered by Ms. Nelson (D-5) reveals that the Appellant's Aged and Disabled Waiver slot had been assigned to another recipient and that the Appellant would be required to re-apply for Medicaid Aged and Disabled Waiver Program benefits.
- 5) Appellant's representatives contended that they did not receive the December 2015 notice advising of the required annual review, or the January 2016 notice advising that her Medicaid benefits were closing.

APPLICABLE POLICY

Policy found in the West Virginia Income Maintenance Manual §1.2.B.2, provides that periodic reviews of total eligibility for recipients are mandated by law. These are redeterminations and take place at specific intervals, depending on the program or coverage group. Failure by the client to complete a redetermination usually results in ineligibility. If the client completes the redetermination process by the specified program deadlines and remains eligible, benefits must be uninterrupted and received at approximately the same time.

West Virginia Income Maintenance Manual §17.17.B, addresses Medicaid Aged and Disabled Waiver (ADW) Program eligibility and states that a redetermination of eligibility is completed once a year; a face-to-face interview is not required. Medical necessity must be verified annually at redetermination with a letter or document from the UMC stating they continue to be eligible. Once the redetermination is complete, the same criteria and procedures used for applications are applied. Medicaid eligibility is established and the medical eligibility for services is monitored by the Bureau for Medical Services (BMS).

DISCUSSION

Regulations provide that periodic reviews of total eligibility for benefit recipients are mandated by law and take place at specific intervals, depending on the program or coverage group. Medicaid Aged and Disabled Waiver Program redeterminations occur once a year. Failure by the client to complete a redetermination usually results in ineligibility.

Evidence submitted in this hearing reveals that the Appellant was notified in December 2015 that her Medicaid benefits were due for an annual review. When the determination was made that Appellant's annual review had not been completed, she was notified a second time that her benefits were closing at the end of January 2016.

Appellant's representatives contended that neither of the aforementioned notices were received by Appellant and inquired why they had not been advised of the change in review procedure, or contacted by phone when the review was not completed. Respondent's representatives noted that its mail is returned by the U.S. Post Office if it is undeliverable, and neither of the notice letters sent to the Appellant were returned. Respondent further noted that there has not been a change in the benefit review process, and that it would be impossible to contact each of the more than 7,000 benefit recipients served by its office when reviews are not completed.

Appellant's representatives reported that they live in a mobile home park with the Appellant, and because there are several mailboxes located together, there have been occasions when mail has been placed in the incorrect box by their mailman. No other issues related to mail receipt were noted.

The Appellant's argument regarding mail receipt was considered in this decision, but the fact remains that neither the December 2015, nor the January 2016 notice was returned by the post office, and there was no evidence submitted to corroborate problems with mail receipt at Appellant's residence. Furthermore, upon reviewing the evidence, [REDACTED] reported during her phone conversation with Ms. Nelson on March 18, 2016 – as indicated in Ms. Nelson's e-mail – that [REDACTED] (Appellant) misplaced the review. This information further indicates that the Appellant was notified of the required review.

CONCLUSIONS OF LAW

- 1) Periodic reviews of total eligibility for benefit recipients are mandated by law and take place at specific intervals, depending on the program or coverage group.
- 2) Medicaid Aged and Disabled Waiver Program redeterminations occur once a year.
- 3) Because Appellant failed to complete her annual review in January 2016, continued eligibility could not be established and her Medicaid benefits were correctly terminated effective January 31, 2016.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to terminate the Appellant's benefits and services provided through the Medicaid Aged and Disabled Waiver Program.

ENTERED this ____ Day of May 2016.

**Thomas E. Arnett
State Hearing Officer**