



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton WV 26354
February 7, 2005

Joe Manchin III
Governor

Dear Ms.

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 2, 2005. Your hearing request was based on the Department of Health and Human Resources/ West Virginia Medical Institute's determination in finding you medically ineligible for the Medicaid, Long Term Care Program (nursing facility services).

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.

Medicaid, Long Term Care Services are provided to eligible Medicaid individuals who reside in a nursing care or ICF/MR facility. Individuals eligible for coverage under this group must qualify medically. The medical evaluation assessment must establish the existence of a specified number and degree of care needs. (West Virginia Income Maintenance Manual § 17.1 and 17.11)

The information which was submitted at your hearing revealed that your medical condition as of the January 4, 2005 medical evaluation did not require a sufficient level of care (5 functional deficits) to medically qualify you for current participation in the Medicaid, Long Term Care Program.

It is the decision of the State Hearing Officer to uphold the Agency's determination of January 6, 2005 finding you medically ineligible for the Medicaid-Long Term Care Program.

Sincerely,

Ron Anglin
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
BMS, Emily Keefer
[REDACTED]

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 7, 2005 for Irene _____. 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 February 2, 2005 on a timely appeal filed January 13, 2005. It should be noted here that the claimant has been found not medically eligible for the Medicaid, Long Term Care Program.

II. PROGRAM PURPOSE:

The Program entitled **Medicaid; Long Term Care** (nursing facility services) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources. Nursing Home Care is a medical service which is covered by the State's Medicaid Program. Payment for care is made to nursing homes which meet Title XIX standards for the care provided to eligible recipients. In order to qualify for Nursing Home Care, an individual must meet both financial and medical eligibility criteria.

III. PARTICIPANTS:

, claimant
, nephew
, spouse to nephew
, LSW, _____

_____ Admin, _____
Emily Keefer, BMS/ Program Manager- LTC (by phone)
Oretta Keeney, West Virginia Medical Institute (by phone)

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the claimant was medically eligible for the Medicaid, Long Term Care Program?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 17.1 and 17.11.

Medicaid Manual Chapter 500, Volume 15 § 508.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

E -1- Medicaid Policy 508- 508.3

E -2- PAS-2000, Medical Evaluation, and medical documentation, 1/04/05

C -1- Discharge Summary, 3/17/04 and Lack of Capacity statement, 11/16/04

VII. FINDINGS OF FACT:

(1) PAS-2000, medical evaluation dated January 4, 2005 evaluated by Dept of Health & Human Resources per West Virginia Medical Institute January 6, determined claimant medically ineligible for the Medicaid, Long Term Care Program.

(2) A hearing requested January 12, 2005. Hearing convened at nursing facility February 2, 2005.

(3) During the hearing, Exhibits as noted in Section VI were presented.

(4) Emily Keefer provided information concerning policy and process.

(5) Oretta Keeney testified that medical evaluation (E-2) revealed qualifying functional deficits only in vacating (building) and medication administration. Evaluation reveals 2 deficits and 5 are required to establish medical eligibility.

(6) [REDACTED] testified that with bathing claimant helps only with washing bottom. Wears pads and takes pills for incontinence.

(7) Exhibit E-2 Medical Evaluation of 1/4/05, reveals that the claimant has functional deficits in medication administration and vacating building.

VIII. CONCLUSIONS OF LAW:

(1) Medicaid Manual Chapter 500, Volume 15 § 508.2:

To qualify medically for the nursing facility Medicaid benefit, an individual must need direct nursing care twenty-four (24) hours a day, seven (7) days a week. The Bureau has designated a tool known as the Pre-Admission Screening form (PAS) to be utilized for physician certification of the medical needs of individuals applying for the Medicaid benefit. See Attachment 2.

An individual must have a minimum of five (5) deficits identified on the PAS in order to qualify for the Medicaid nursing facility benefit. These deficits may be any of the following:

- Stage 3 or 4 pressure ulcer
- In the event of an emergency, the individual is mentally or physically unable to vacate a building
- The individual needs hands on assistance with eating, bathing, grooming, dressing, transfer, and walking.
- The individual is incontinent of bowel or bladder more than three (3) times a week.
- The individual is totally disoriented to time and place or is comatose
- The individual cannot navigate a wheel chair in the home and must not be able to walk in the home without physical assistance.
- The individual has skilled nursing care needs in one or more of these areas: suctioning, tracheotomy, ventilator, parenteral fluids, sterile dressings or irrigations.
- The individual is not capable either mentally or physically of administering his/her own medications.

The assessment tool designated by the Bureau for Medical Services must be completed and signed and dated by a physician. It is then forwarded to the Bureau or its designee for medical necessity review. The assessment tool must be completed and reviewed for every individual residing in a nursing facility no matter what the payment source for services.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the agency's January 6, 2005 determination concerning the claimant's medical eligibility for Medicaid

LTC Services.

Policy is clear that in order to medically qualify for the Medicaid (LTC) Program an individual must have a total of 5 deficits in specific categories of nursing services. These required "deficits" are those categories as set forth on the PAS-2000 medical evaluation form and in section V of this decision.

The medical evaluation of January 4, 2005, establishes 2 fully qualifying deficits- medication administration and vacating a building. Testimony offered during the hearing reveals that continence and possibly bathing may also be qualifying deficits. However, their inclusion results in a total of only 4 deficits while medical eligibility requires 5.

The claimant's medical eligibility for the Medicaid, Long Term Care Program therefore cannot be established based on the January 4, 2005 evaluation.

X. RIGHT OF APPEAL

See Attachment.

XI. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.