

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

IN RE: _____,
Claimant

vs.

BOR Action # 07-BOR-1700

**West Virginia Department of Health and Human Resources,
Respondents**

On June 13, 2007, the West Virginia Department of Health and Human Resources' Bureau for Medical Services received a Request for Hearing from the Claimant wishing to appeal the medical denial of Long Term Care services.

State Medicaid regulations at Chapter 500 Covered Services, Limitations, and Exclusions; Volume 15 Nursing Facility Services; Section 508 Resident Eligibility Requirements states:

The Department has established a process of evaluation to determine eligibility for long term care services under the Medicaid Program. The evaluation is made on each recipient from information supplied by a physician, recipient or family/representative, health care facility and/or eligibility worker in the local Department of Health and Human Resources office. This determination for the Medicaid benefit for nursing facility residents is based on both medical and financial criteria. The Bureau for Medical Services or its designee is responsible for the medical necessity determination and the Bureau of Children and Families is responsible for the financial determination.

The determination must occur prior to payment for services. The date the benefit starts is the later of one of the following dates:

- The date of application in the local DHHR office;
- The date of the physician signature on the medical assessment tool; or the date of admission to the nursing facility.

The local office is responsible for notifying the individual/representative, the Bureau and the nursing facility of the date Medicaid eligibility begins.

A search of the local office records indicates the financial application was denied in May 2007.

The Board of Review lacks the authority to change policy established by the Medicaid agency.

There being no relief available to this Claimant through the Board of Review fair hearing process, it is hereby ORDERED that the Claimant's June 13, 2007 request for a hearing is DISMISSED.

Entered this 27th day of August, 2007

Ray B. Woods, Jr., M. L. S.
State Hearing Officer

Attachments:

IG-BR-46

IG-BR-29

Certificate of Service

CERTIFICATE OF SERVICE

I, Ray B. Woods, Jr., M. L. S., State Hearing Officer for the West Virginia Department of Health and Human Resources Board of Review, hereby certify that I have served a true and accurate copy of the foregoing “**Notice of Dismissal**” by regular United States mail, first-class, postage prepaid this 27th day of August 27, 2007 to the following:

Ms. _____, POA

Mr. _____, POA

Ms. Nora McQuain, R. N.
WV DHHR
Bureau for Medical Services
350 Capitol Street
Charleston, WV 25301

Ray B. Woods, Jr., M. L. S.

CLAIMANT’S RECOURSE TO ADMINISTRATIVE HEARING DECISION

**For
Public Assistance Hearings,
Administrative Disqualification Hearings, and
Child Support Enforcement Hearings**

A. CIRCUIT COURT

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

C. THE UNITED STATE DEPARTMENT OF AGRICULTURE

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.