



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 15, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 3, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your Medicaid application based on failure to meet disability criteria.

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 SSI-Related Medicaid Program is based on current policy and regulations. One of these regulations specifies that in order to be considered disabled, an individual over 18 must be unable to engage in any substantial gainful employment by reason of any medically determined physical or mental impairment which can be expected to result in death or last for a continuous period of not less than 12 months. [WV Income Maintenance Manual Section 12.2(A)]

Information submitted at your hearing revealed that you do not meet the criteria necessary to establish a disability for Medicaid purposes.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your October 14, 2005 application for SSI-Related Medicaid.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Clara Thomas, ESW, DHHR

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

____,

Claimant,

v.

Action Number: 06-BOR-1431

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

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on May 15, 2006 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 convened on May 3, 2006 on a timely appeal filed March 16, 2006.

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The SSI-Related Medicaid Program is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as either aged disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

____, Claimant
Clara Thomas, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Agency was correct in its action to deny the Claimant's application for SSI-Related Medicaid based on failure to meet disability criteria.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 12.2(A)
20 CFR ' 404.1505 - 404.1545, Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of Decision dated February 27, 2006
- D-2 West Virginia Income Maintenance Manual Sections 12.2, 12.3 and 12.11
- D-3 Packet of medical information sent to Medical Review Team

VII. FINDINGS OF FACT:

- 1) The Claimant completed an application for SSI-Related Medicaid on October 14, 2005.
- 2) On October 18, 2005, the Claimant's medical records (D-3) from [REDACTED] Medical Center were sent to the Medical Review Team for evaluation.
- 3) The MRT reviewed the Claimant's medical documentation and determined that the Claimant is not physically disabled in a decision dated November 17, 2005 (D-3). The decision stated:

No physical disabilities noted. The above does not qualify for MAO-D.

- 4) The MRT, however, requested that the Claimant undergo a psychiatric evaluation and that a psychiatrist's summary also be completed. The evaluation (D-3) was completed on December 16, 2005 by Dr. [REDACTED]. The psychiatrist's summary indicates that the Claimant has been diagnosed with major depressive disorder and panic disorder. The summary, which lists the Claimant's prognosis as "fair," also includes a diagnosis of opioid dependence that is currently in remission. Regarding employment limitations, Dr. [REDACTED] wrote:

Ability to maintain employment is somewhat affected by, but not precluded by, mental illness. Significant improvement in condition is possible with treatment and patient's compliance with treatment.

The psychiatric information was sent to the Medical Review Team on February 2, 2006.

- 5) The MRT determined that the Claimant is not mentally disabled in a decision issued February 22, 2006 (D-3). The decision states:

Deny. Client is diagnosed major depressive disorder, panic disorder, opioid dependence. 15A (psychiatrist's summary) indicates employment not precluded by mental impairment.

The Department sent the Claimant a Notice of Decision on February 27, 2006 informing him of the Medicaid denial.

- 6) The Claimant, who last worked as a [REDACTED] at [REDACTED] in 2004, is literate and has an 11th grade education, according to testimony and a Social Summary included in Exhibit D-3. He was in an automobile accident in September 2005 and testified that he injured his elbows, shoulders and neck. He also testified that he has limited use of his right arm and has an anal fissure. Medical records indicate that the Claimant was seen by [REDACTED] D.O., at [REDACTED] Medical Center on October 10, 2005 and reported muscle aches and pains stemming from the automobile accident.

- 7) West Virginia Income Maintenance Manual ' 12.2 (A) (D-2):
The definition of disability for Medicaid purposes is the same as the definitions used by SSA in determining eligibility for SSI or RSDI based on disability. An individual who is age 18 or over is considered to be disabled if he is unable to engage in any substantial gainful activity due to any medically determined physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death.

- 8) The Federal definition of disability is found in 20 CFR ' 404.1505:
There is a five-step sequence of questions to be addressed when evaluating claims of disability. These are set forth in 20 CFR ' 404.1520.
(1) Is the person performing substantial gainful activity as defined in 20 CFR 404.1510?
(2) Does a severe impairment exist which is expected to last one year or result in death?
(3) If the person has a severe impairment, is the impairment a listed impairment under 20 CFR Part 404, Sub Part P, App. 1 or its medical equivalent?
(4) What is the person's Residual Functional Capacity (20 CFR 404.1545) and can that person still perform his or her former work?
(5) Can the person do any other work based upon the combined vocational factors of residual functional capacity, age, education, and past work experience? (20 CFR ' 404.1520f)

- 9) 20 CFR ' 404.1508, 404.1509, & 404.1520 Code of Federal Regulations:

Unless your impairment is expected to result in death, it must have lasted or must be expected to last for a continuous period of at least 12 months. We call this duration requirement. (404.1509)

Your impairments(s) must be severe and meet the duration requirement before we can find you disabled. If you do not have any impairments or combination of impairments

which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education and work experience. (404.1520)

- 10) 20 CFR ' 404.1508, 404.1509, & 404.1520 Code of Federal Regulations: Impairment must result from anatomical, physiological or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms and laboratory findings, not only by your statement of symptoms. (404.1508)

VIII. CONCLUSIONS OF LAW

- 1) The Claimant is not performing substantial gainful activity as defined in 20 CFR ' 404.1510.
- 2) While the Claimant has some physical and mental ailments, documentation submitted in conjunction with the October 14, 2005 application fails to substantiate that the Claimant has an impairment that is expected to last one year or result in death. The psychiatrist's summary indicates that the Claimant's mental illness somewhat affects - but does not preclude - his ability to maintain employment.
- 3) The Department followed proper procedures in determining that the Claimant does not meet disability requirements.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant's application for SSI-Related Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th Day of May 2005.

Pamela L. Hinzman
State Hearing Officer