



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
150 Maplewood Avenue  
Lewisburg, WV 24901

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

January 11, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 2, 2005. Your hearing request was based on the Department of Health and Human Resources' action to terminate your benefits under SSI-Related Medicaid Program.

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. Some of these regulations state as follows: 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 which can be expected to last for a continuous period of not less than twelve months. (WV Income Maintenance Manual Section 12.2 (A))

The information which was submitted at your hearing revealed that in the opinion of the State Hearing Officer, you do meet the above stated definition.

It is the decision of the State Hearing Officer to reverse the action of the Department to terminate your benefits under the SSI-Related Medicaid Program.

Sincerely,

Margaret M. Mann  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Sharon Newman, DHHR

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number: 05-BOR-5905**

**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 August 2, 2005 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 August 2, 2005 on a timely appeal, filed June 2, 2005.

It should be noted here that the claimant's benefits have been terminated.

**II. PROGRAM PURPOSE:**

The Program entitled SSI-Related 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  
Sharon Newman, Department Hearing Representative

Presiding at the hearing was Margaret M. Mann, 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 claimant meets the eligibility requirement of categorical relatedness for SSI Related Medicaid by qualifying as a disabled person as defined by the Department.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 12.2(A)  
20 CFR 416.905 and 416.920  
Section 12.04, 20 CFR Part 404, Subpart P. App. 1 & 2  
20 CFR 404.1594 (b)(1)

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Department's Summary
- D-2 Copy of IG-BR-29 Hearing/Grievance Record Information
- D-3 Copy of hearing appointment letter dated 07/08/05
- D-4 Copy of Combined Application and Review Form dated 07/15/04
- D-5 Copy of OFS-RR1 dated 07/15/04
- D-6 Copy of ES-RT-2 dated 07/15/04
- D-7 Copy of ES-RT-1 (Social Summary) dated 07/15/04
- D-8 Copy of Copy of DFA-RT-14 requesting current psychiatric report
- D-9 Copy of appointment letter for [REDACTED] Psychiatric
- D-10 Copy of report from [REDACTED] Psychiatric dated 01/07/05
- D-11 Copy of DFA-RT-3M (MRT Decision) dated 03/02/05
- D-12 Copy of Denial notice dated 04/08/05
- D-13 Copy of Medical Records
- D-14 Copy of Case Comments
- D-15 Copy of Income Maintenance Policy 12.2 -12.5, 12.8, 12.10 – 12.14

**Claimant's Exhibits:**

- C-1 Statement from Dr. [REDACTED] dated 06/23/05
- C-2 Letter from \_\_\_\_\_ dated 07/06/05

**VII. FINDINGS OF FACT:**

- 1) The claimant was in the office on 07/15/04 to complete an MRT reevaluation as requested by the Medical Review Team (MRT). Medical information was obtained and

case was submitted to MRT on 11/08/04. The MRT then requested a psychiatric report. On 02/28/05 medical was received from [REDACTED] Psychiatric Services. On 04/07/05 the worker received the MRT decision that the claimant was not disabled. DFA-RT-3 states that client was diagnosed major affective disorder. Possible adult ADD clinically. Client displays moderate functional limits as a consequence of mental impairments. Client could perform work-like activities. (D-11)

2) The claimant was sent a closure notice on 04/08/05. The letter reads in part: Your SSI Related Medicaid will stop. You will not receive this benefit after April 2005. Reason: Individual is not Aged, Blind or Disabled which is a requirement for this Medicaid coverage. (D-12) A hearing was requested on 06/02/05.

3) The State's definition of disability for Medicaid is found in WV Income Maintenance Manual Section 12.2 and reads as follows:

An individual who is age 18 or over is considered to be disabled if he is unable to engage in substantial gainful employment by reason of 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.

4) The State's definition of disability for Medicaid is the same as the definition used by the Social Security Administration in determining eligibility for SSI based on disability which is found at 20 CFR 416.905.

5) There is a five-step sequence of questions to be addressed when evaluating a person's ability to perform substantial gainful activity for purposes of SSI; these are set forth in 20 CFR 416.920.

6) The first sequential step is:

Is the person performing substantial gainful activity as defined in 20 CFR 416.910? If so, the person is not disabled.

7) The claimant is not employed.

8) The second sequential step is:

If not, does a severe impairment exist which has lasted or can be expected to last one year or result in death? If not, the person is not disabled.

9) Psychiatric report dated 01/07/05 from Dr. [REDACTED] reads in part that the claimant is a 33-year old single male who has a long history of depression, anxiety, mood swings, and sexual dysfunction which is felt to be psychogenic in nature. He is currently not working.... He left school in the tenth grade and completed his GED. He has some training as an industrial tech at Vo-Tech. He has worked predominately in restaurants, supermarkets and telemarketing. (D-10)

- 10) The psychiatric report reads under Mental Status: Neat, tidy and cooperative. Talked clearly, audibly, and rationally. Speech was clear, lacked spontaneity. Affect was appropriate, a little dysphoric. He was oriented for time, place, date and person. Guarded and suspicious, a little paranoid. At times he hallucinates and yells for no apparent reason. He stated "A times I feel people talk about me." A sense of hopeless/helpless prevailed. He talked about mood swings, anger, irritability, impulsivity, and inattentiveness also. No first rank signs of signs of schizophrenia were elicited. No homicidal or suicidal ideation or plans entertained. Abstract thinking showed some concretization. Insight, judgment, and problem solving seemed rather poor. (D-10)

Psychiatric Diagnosis:

AXIS I: Major affective disorder, possibly bipolar, mixed affective state.  
History of possible adult ADD clinically.

AXIS III: Sexual dysfunction, mixed in nature, predominately psychogenic.

- 11) The psychiatric report by Dr. [REDACTED] dated 06/23/05 (C-1) reads in part:

Diagnosis AXIS I: Bipolar disorder, mixed in nature with paranoid ideation and intermittent explosive disorder; sexual dysfunction, mixed in nature.

This young male is with history of bipolar disorder, continues to do poorly, stating that he cannot afford the treatment. He cannot hold on to a job. ....I tend to agree with his mother that he is not able to work for at least the next twelve months.

- 12) The claimant was found by MRT to be disabled in a decision dated 10/16/03. (D-13) At that time, a physician's summary was completed by Dr. [REDACTED] Last patient contact: 10/02/03. Diagnosis: Bipolar mood ir? Prognosis: poor. Length of time disability expected to last: 12 month. Employment Limitation: Limited.
- 13) 20 CFR 404.1594 (b)(1) Code of Federal Regulations reads that medical improvement is any decrease in the medical severity of your impairment which was present at the time of the most recent favorable medical decision that you were disabled or continued to be disabled. A determination that there has been a decrease in medical severity must be based on changes (improvement) in the symptoms, signs and/or laboratory findings associated with your impairment(s).

**VIII. CONCLUSIONS OF LAW:**

- 1) The medical evidence listed in Part VII., #9, #10, #11 & #12 does support the requirement that the claimant must have a severe impairment which has lasted or can be expected to last one year or result in death.
- 2) The medical evidence shows there has been no improvement in the claimant's condition.

**IX. DECISION:**

It is the finding of the State Hearing Officer that the claimant does meet the definition of disability. The Department is reversed in the decision to terminate the claimant's benefits under the SSI-Related Medicaid Program. The case will be reopened effective May 1, 2005. The case will be reevaluated in January, 2007 with a general physical and an updated psychiatric report.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 11th Day of January, 2006.**

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**Margaret M. Mann  
State Hearing Officer**