



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 1736
Romney, WV 26757

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 August 3, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for Medicaid based on disability not determined.

In arriving at a decision, the State Hearings 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 Medicaid Program (SSI-Related) 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 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 you do not meet the criteria necessary to establish a disability for purposes of the Medicaid Program.

It is the decision of the State Hearings Officer to **uphold** the action of the Department in denying your application for SSI-Related Medicaid.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Ann Hubbard, ESW, DHHR

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

_____,
Claimant,

v.

Action Number: 05-BOR-5956

**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 3, 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 3, 2005 on a timely appeal, filed April 11, 2005.

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
_____, Claimant's mother
_____, Claimant's girlfriend
Ann Hubbard, ESW, DHHR

Presiding at the Hearing was Sharon K. Yoho, 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 their action to deny the Claimant's application for SSI-Related Medicaid based on disability not being met.

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 Decision issued by Medical Review Team, (MRT) dated December 10, 2004
- D-2 Social Summary Outline dated November 22, 2004
- D-3 General Physical, (DFA RT-5) December 2, 2004
- D-4 Memo from MRT, dated January 24, 2005 requesting Psychiatric report
- D-5 Letter dated 2/9/05 to Mr. _____ of need to schedule Psychiatric Evaluation
- D-6 Memo to MRT dated April 20, 2005 requesting disability determination
- D-7 Psychological Evaluation dated March 29, 2005
- D-8 MRT denial report dated April 22, 2005
- D-9 Denial letter dated May 20, 2005
- D-10 WV Income Maintenance Manual §12.2

Claimant's Exhibits:

- C-1 Memo from Navy Recruit Command dated November 16, 2001
- C-2 Notification of discharge from Navy dated November 15, 2001
- C-3 Administrative Remarks from Navy records November 15, 2001
- C-4 Medical records Facesheet dated October 5, 2004
- C-5 Outpatient request from [REDACTED] Health dated September 13, 2004

VII. FINDINGS OF FACT:

- 1) The Claimant completed an application for SSI-Related Medicaid on November 22, 2004. Application date was backdated to October 7, 2004 to the date InRoads signature page was received by the Department. A General Physical was scheduled for Mr. _____ on November 23, 2004.
- 2) General Physical document and a Social Summary were forwarded to the Department's Medical Review Team (MRT) on December 10, 2004 to determine if the Claimant is to be considered disabled based on SSI Related Medicaid guidelines.
- 3) MRT reviewed the Claimant's medical documentation and issued a request on January 24, 2005 for a psychiatric evaluation. The Department was unable to locate a

Psychiatrist who would accept the Department's voucher for payment. The Department proceeded to schedule a Psychological instead.

- 4) On April 20, 2005, the Department sent the reports from the Psychological to the MRT for review.
- 5) The Medical Review team issued a decision of denial on April 22, 2005. This decision explained: "Ct. is diagnosed BiPolar NOS, cannabis abuse per Ct's responses were sometimes inconsistent and portrayed him in a negative light at the psychological. Client exhibits moderate functional limits. He could perform work activities."
- 6) The General Physical completed on December 2, 2004 indicates that the claimant is employable and that there is no work situation that should be avoided. This report did note the diagnosis of Bi-Polar.
- 7) Since the MRT had requested a Psychiatric report on January 24, 2005 and instead received a Psychological report, this Hearing Officer requested that the agency follow up with a Psychiatric evaluation and ask the MRT for a reconsideration. The Department obtained a Psychiatric evaluation report and submitted it to the MRT. The MRT has since then responded with a request for X-Rays. The Department has been unsuccessful in obtaining the cooperation necessary from the Mr. _____ to get the requested X-Rays.
- 8) Mr. _____ provided Military discharge records that support that he suffers from a Personality Disorder.
- 9) Mr. _____ also provided Medical record evidence to support a diagnosis of Bi-Polar and of Lithium therapy.
- 10) West Virginia Income Maintenance Manual ' 12.2 (A):
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.
- 11) 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)

- 12) 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)
- 13) 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 evidence submitted at the hearing fails to identify a severe impairment that is expected to last for a continuous period of at least 12 months or result in death or that would prevent him from engaging in substantial gainful employment.
- 2) Based on the documentation in which the Department has been able to obtain the action to deny SSI related Medicaid is supported.

IX. DECISION:

Medical documentation submitted for review, fails to satisfy the severity and duration requirements necessary to establish a disability for the purpose of the Medicaid Program. This hearing office would encourage this claimant to demonstrate more cooperation with the Department in any future application processes.

It is the ruling of this Hearing Officer that based on the information gathered for review, the Department was correct in their determination. I further rule to **uphold** the action of the Department in denying the application for SSI-Related Medicaid benefits.

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 2006.

**Sharon K. Yoho
State Hearing Officer**