



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
227 Third St.  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

January 24, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 31, 2005 and reconvened on December 7, 2005. 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 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: 05-BOR-6291**

**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 January 24, 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 August 31, 2005 on a timely appeal filed July 26, 2005. It reconvened on December 7, 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

Clara Thomas, Economic Service Worker, DHHR

Presiding at the hearing was Pamela 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 Medicaid denial letter dated July 8, 2005
- D-2 West Virginia Income Maintenance Manual Sections 12.2 and 16.9
- D-3 Packet of medical information sent to Medical Review Team on June 6, 2005 with attached decision and resubmitted packet dated September 7, 2005
- D-4 Packet of medical information sent to Medical Review Team on December 12, 2005 with attached decision

**VII. FINDINGS OF FACT:**

1) The Claimant completed an application for SSI-Related Medicaid on May 2, 2005. Medical records (D-3) were requested and forwarded to the Agency's Medical Review Team, hereinafter MRT, to determine whether the Claimant meets disability requirements. The submitted medical records were from [REDACTED] Hospital.

2) The MRT issued a decision on July 5, 2005 which states:

Clinical records do not support the presence of a covered disability condition. The above does not qualify for MAO-D, 1 yr.

The Claimant was sent a Medicaid denial letter on July 8, 2005 (D-1).

3) A fair hearing convened on August 31, 2005, at which time a general physical examination report was requested by the Hearing Officer. At that time, the Claimant testified that he is 54 years old, completed the eighth grade and worked in a saw mill from 1969 through 2004 but quit his job due to back problems. He was involved in a dune buggy accident in April 2005 at which time he suffered five broken ribs, a bruised lung and a shoulder injury. The Claimant testified that he has lower back pain which makes it difficult for him to get out of bed in the mornings.

- 4) The Claimant was examined by Dr. [REDACTED] on August 31, 2005. The physician's summary (D-3) indicates that the Claimant's major diagnoses are chronic back pain and Chronic Obstructive Pulmonary Disorder. Minor diagnoses are nicotine and alcohol dependency. The physician indicated that the Claimant is unable to work for a period of one month. The report states that the Claimant would be able to work full-time at his customary employment, similar employment or other employment after medical assistance is rendered to treat his back pain.
- 5) A decision (D-3) was rendered by the MRT on September 27, 2005 which states:

Denied on basis of RT 5 examiner dated 8/31/05 that client is able to work full time.
- 6) The hearing reconvened on December 7, 2005 at which time the Claimant reported that the Social Security Administration had additional medical records in conjunction with his Social Security Disability application. The Hearing Officer ordered the Department to request those records and resubmit the medical package to the MRT.
- 7) A decision (D-4) was rendered by the MRT on December 27, 2005 which states:

Has had injuries as documented, but no evidence of a disabling condition. The above does not qualify for MAO-D.
- 8) 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.
- 9) 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)
- 10) 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)

- 11) 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 suffers back pain and some current physical ailments, evidence fails to substantiate that these impairments are expected to last one year or result in death.
- 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 24th Day of January 2006.**

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**Pamela L. Hinzman**  
**State Hearing Officer**