



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

February 22, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 12, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the 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 not meet the above stated definition.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny your application for 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
Beverly McKinney, DHHR

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

_____,

Claimant,

v.

Action Number: 05-BOR-6652

**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 February 16, 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 October 12, 2005 on a timely appeal, filed August 22, 2005. It should be noted that at the conclusion of the hearing on October 12, 2005, the record was left open in order for additional information to be requested and then the case resubmitted to the Medical Review Team (MRT) for reconsideration. The State Hearing Officer received the additional information and MRT's decision on February 16, 2006.

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

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
Beverly McKinney, 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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Appointment Notice
- D-2 Form IG-BR-29 Hearing/Grievance Record Information
- D-3 Hearing Request
- D-4 Medicaid Denial Letter dated 07/25/05
- D-5 Medical Records
- D-6 Additional Medical Requested
- D-7 Sections 12.2, 12.3 and 12.4 of the West Virginia Income Maintenance Manual
- D-8 Department Summary
- D-9 MRT Packet dated 01/23/06 received 02/03/06

Claimants' Exhibits:

- C-1 Statement from Dr. [REDACTED] dated 10/12/05

VII. FINDINGS OF FACT:

- 1) The claimant applied for SSI-Related Medicaid based on disability on 06/07/2005. He requested the Medicaid be backdated to 05/01/2005.
- 2) Medical information was requested and the case was submitted to the Medical Review Team (MRT). A decision was received on July 21, 2005 (D-5) from MRT stating the

client is not disabled. "Cardiac work-up appears to be negative. No disabling conditions noted. The above does not qualify for MAO-D."

- 3) The claimant was sent a denial notice on 07/25/05. (D-4) A hearing was requested on 08/22/05. (D-3)
- 4) The claimant reapplied for Medicaid on 09/19/05. Additional information was gathered and the case resubmitted to MRT for reconsideration on 01/19/06. The decision was received from MRT on February 3, 2006 stating client is not disabled – "no conditions noted that would meet a disability rating for MAO-D of one year." (D-9)
- 5) 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.

- 6) 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.
- 7) 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.
- 8) 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.

- 9) The claimant is not employed.
- 10) 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.

- 11) A stress test was performed 05/17/05 at [REDACTED] Hospital. The report by Dr. [REDACTED] reads as follows: The resting EKG shows sinus bradycardia, rate of 51, otherwise normal. Resting blood pressure is 120/76. The patient was exercised on the treadmill on Bruce protocol and the test was terminated at the completion of the third stage for a total duration of nine minutes due to fatigue. No chest pain was reported. Peak exercise heart rate of 178 were obtained. The EKG is negative for ischemic response or any significant ventricular ectopy. Cardiolute was injected near the peak of exercise.

Conclusion: 1) Good exercise tolerance. The patient achieved 18.1 METS. 2) The test

is negative by electrocardiographic criteria for exercise-induced myocardial ischemia. (D-5)

12) Radiological Report [REDACTED] Hospital dated 05/17/05 "Final Report" reads in part: Impression: Fixed perfusion defects involving the left ventricle, as stated, without evidence of stress-induced ischemia. (D-5)

13) Combined HP/DS from [REDACTED] Hospital dated 08/26/05 (D-6) reads in part:

Admitting Diagnosis: Chest pain.

Discharge Diagnoses:

1. Acute coronary syndrome.
2. Chronic bronchitis.
3. Anxiety, nonspecific.

This is the second formal admission to the [REDACTED] Hospital, [REDACTED] WV for Mr. _____, a 54-year-old black divorced gentleman, who was admitted through the emergency room after presenting with the above complaints. He was initially seen by Dr. [REDACTED] for left sided chest pain radiating to the side of the left arm, left shoulder, and left jaw. The pain started approximately 20 minutes before his presentation to the ER, and resolved with the administration of two sublingual nitroglycerin tablets. He denied fever, chills, and also denied any nausea and vomiting, or diarrhea. He also had no hematemesis or hemoptysis. He did feel some shortness of breath at the time of the chest pain and some anxiety.

A chest x-ray was secured which showed no infiltrate, pleural effusion, or mass. Heart has top normal in size, but the lungs were noted to have emphysematous bullae at the bases with fibrosis in the apices. The initial EKG showed a sinus bradycardia of 53 per minute with left atrial enlargement (officially).

The physical examination was normal. It reads in part that the heart is a regular rate although the apical pulse appears to be approximately 56 per minute with no murmurs, lift or gallops.

The Cardiolute stress test showed the patient to tolerate treadmill according to Bruce protocol of 85% of maximum heart rate, work load of 12.8 mets. The Cardiolute component showed normal perfusion of the left ventricle with wall motion also showing thickening and contractility. The ejection fraction by the gated procedure was estimated at 56%. Furthermore, this gentleman's continuous bedside telemetry failed to show any tachy arrhythmia or extra systole. His heart rate varied, as monitored by the telemetry from 56 to 62 during the course of the hospitalization.

In view of the fact that he had no further complaints of chest pain while in-house, having essentially normal Adenosine-Cardiolute stress test, and showed normal cardiac markers, it was decided that he would be released to be followed on an outpatient basis. The cause for the chest discomfort was thought to be possibly modest subacute bronchitis which would be addressed using Combivent metered dose inhaler 3 puffs q.i.d. until evaluated within the office. The report was signed by Dr. [REDACTED]

- 14) The Combined HP/DS from [REDACTED] Hospital dated 08/15/05 (D-6) shows the following:

Admitting Diagnosis: Chest Pain

Discharge Diagnoses:

1. Erosive gastritis, alcohol induced.
2. Acute coronary syndrome.
3. Chronic bronchitis.
4. Mild upper respiratory tract infection.

Hospital Course: Serial cardiac enzymes were secured and the patient was also continued on telemetry. The serial cardiac enzymes failed to show any abnormality suggestive of serologic injury to his heart. Also, this gentleman did not have any subsequent subjective complaints of chest pain, shortness of breath, diaphoresis, or palpitations throughout the course of his hospitalization. As this gentleman appeared quite stable, it was felt that the sharp chest pain which prompted his admission resulted from prior irritation of the upper GI tract from his intake of brandy which may have occurred a few days before the onset of the symptoms. At any rate, he appeared stable and also it was felt that he could be released and followed on an outpatient basis.

- 15) Emergency Room Note from [REDACTED] Medical Center dated 01/26/05 (D-9) reads in part:

Chief complaint: Right flank pain.

Assessment:

1. Urinary tract infection.
2. No evidence of intra-abdominal abscess on CT scan. He refused blood work.

- 16) Emergency Room Note from [REDACTED] Medical Center dated 05/01/05 (D-9) reads in part:

Diagnosis: Chest pain, rule out myocardial infarction. Patient was admitted to Dr. [REDACTED]'s service, telemetry observation unit, to get serial cardiac enzymes, aspirin daily, nitroglycerin paste ½ inch to his anterior chest wall.

He was treated with some nitroglycerin to avoid his chest pain once. The pain dissipated on its own. It did not return. He was discharged in stable condition to have an Adenosine Cardiolute Stress Test 05/03/05.

- 17) A normal stress test was completed 05/03/05. (D-9) Impression for Myocardial perfusion scan, wall motion study, and ejection fraction study, 05/03/05: Stress exam only because of the patient's failure to return for a resting exam. Decreased anterior wall activity with normal thickening during contraction probably represents normal chest wall artifact versus nontransmural infarction. Otherwise, normal examination.

- 18) The general physical dated 01/17/06 reads in part: Major Diagnosis – CAO, low back pain. Work situations which should be avoided – lifting or sitting long periods of time. Under duration of inability to work full time – filing for disability. (D-9)

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires that the claimant must have a severe impairment which has lasted or can be expected to last one year or result in death.
- 2) There was no convincing evidence or testimony presented during the hearing that would result in a change in the Department's determination that the claimant's condition does not meet the definition of disability.

IX. DECISION:

It is the finding of the State Hearing Officer that the claimant does not meet the definition of disability. The Department is upheld in the decision to deny the claimant's application for the SSI-Related Medicaid Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of February, 2006.

**Margaret M. Mann
State Hearing Officer**