



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

April 4, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 4, 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 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-6687

**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 April 4, 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 January 4, 2006 on a timely appeal filed September 27, 2005. The hearing was originally scheduled for November 7, 2005, but was rescheduled at the request of the Claimant.

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 (participating telephonically)

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 September 12, 2005
- D-2 West Virginia Income Maintenance Manual Sections 12.2 and 16.9
- D-3 Packet of medical records/information sent to Medical Review Team with attached MRT decision

VII. FINDINGS OF FACT:

- 1) The Claimant completed an application for SSI-Related Medicaid on April 29, 2005. The Department received medical records (D-3) and forwarded them to the Medical Review Team, hereinafter MRT, on May 26, 2005 to determine whether the Claimant meets disability requirements.
- 2) On July 5, 2005, the Department received a notice from the MRT requesting that a psychiatric report with a DFA-RT-15a be completed. The evaluation was completed on July 27, 2005, with results received by the Department on August 18, 2005 and the information forwarded to the MRT. No DFA-RT-15a was included with the information.
- 3) A decision (D-3) was received from the MRT on September 12, 2005, which states:

Deny. Ct. is diagnosed major depression & GAD.
She exhibits moderate functional limits which
would not prevent work activities.
- 4) The Claimant was sent a Medicaid denial letter (D-1) on September 12, 2005 explaining that her application had been denied due to failure to establish disability.
- 5) The Claimant, who is 39 years old, has been diagnosed with Major Depressive Disorder, Anxiety Disorder, Agoraphobia, possible paranoia and Hepatitis C. She also reported having seizures, as well as neck, back and knee pain. The last grade she

completed was seventh, and she has no General Equivalency Diploma or vocational training. She last worked as a housekeeper at [REDACTED] motel for six weeks in 2004, but was laid off due to health problems. No other significant employment experience was reported.

The psychiatric evaluation, completed on July 22, 2005 by Dr. [REDACTED] lists a diagnosis of Major Depressive Disorder, recurrent, moderate, and Anxiety Disorder NOS, with a prognosis of "guarded." The evaluation includes no information regarding employment limitations.

A general physical examination completed on May 20, 2005 by Dr. [REDACTED] lists a major diagnosis of hepatitis C (asymptomatic at the present time) and agoraphobia with possible paranoia. The minor diagnosis is "very limited educational and job experience" and joint pain. The physician responded neither affirmatively nor negatively to questions concerning the Claimant's ability or inability to work at her customary profession or like work. In the explanation section, he stated, "The patient does not have a customary occupation- she has been a housewife all of her life and really doesn't have any significant job experience." The physician checked "one year" under duration of inability to work full-time, but failed to provide an explanation for that conclusion.

The hearing record remained open so that additional medical records could be obtained from the Claimant's attorney for possible application resubmission to the MRT, but Ms. [REDACTED] informed the Hearing Officer on March 27, 2006 that no other records were available.

- 6) 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.

- 7) 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)

- 8) 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)

- 9) 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 current physical and mental ailments, evidence fails to substantiate a severe impairment that is 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 4th Day of April 2006.

Pamela L. Hinzman
State Hearing Officer