



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

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

March 2, 2006

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

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 28, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Medicaid coverage under the Breast and Cervical Cancer 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 Medicaid under the Breast and Cervical Cancer Program is based on current policy and regulations. Some of these regulations state as follows: Medicaid coverage concludes when the cancer treatment ends or when the individual is no longer eligible. (West Virginia Income Maintenance Manual Section 16.7H)

Information submitted at your hearing revealed that you concluded treatment for breast cancer on November 14, 2005. Therefore, you are no longer eligible for Medicaid under the Breast and Cervical Cancer Program.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to terminate Medicaid benefits under the Breast and Cervical Cancer Program.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Pam Street, FSS, DHHR

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number: 05-BOR-7065**

**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 March 2, 2006 for \_\_\_\_\_. This hearing was held in accordance with 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 February 28, 2006 on a timely appeal filed November 28, 2005. The hearing was originally scheduled for January 26, 2006, but was rescheduled by the Hearing Officer.

It should be noted here that the Claimant's benefits have been continued pending a hearing decision.

**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 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
Pam Street, Family Support Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is whether the Department is correct in its proposal to terminate the Claimant's Medicaid benefits under the Breast and Cervical Cancer Program.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 16.7H

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

**Department's Exhibits:**

- D-1 Hearing summary
- D-2 Copy of facsimile transmission from Office of Maternal, Child and Family Health

**VII. FINDINGS OF FACT:**

- 1) The Claimant was receiving Medicaid benefits under the Breast and Cervical Cancer Program based on a diagnosis of breast cancer.
- 2) The Department received a facsimile transmission from the Bureau for Public Health/Office of Maternal, Child and Family Health (D-2) on November 14, 2005 which included the following information:

The West Virginia Breast and Cervical Cancer Screening Program has been notified that the client, \_\_\_\_\_, has completed her treatment for breast or cervical cancer on this date, 11/14/05. Please disenroll the client from the BCC Medicaid.

- 3) Ms. Street testified that the Claimant's Medicaid case was closed on November 15, 2005, effective December 2005.
- 4) The Claimant testified that she underwent a breast mastectomy, but does not receive ongoing cancer treatment. She testified that she has other medical problems and takes several medications. The Claimant applied for and was denied SSI-Related Medicaid as disability could not be established.

5) West Virginia Income Maintenance Manual Section 16.7H states:

A woman who meets the following requirements may be eligible for full-coverage Medicaid:

- She has been diagnosed with breast or cervical cancer through the Centers for Disease Control (CDC) program administered by the Office of Maternal, Child and Family Health.

- She has no medical insurance or has only insurance that meets an exception listed in Chapter 7 under Excepted Insurance Benefits. No penalty applies for discontinuing insurance.

- She is under age 65.

- She is not eligible for Medicaid under any of the following Mandatory Categorically Needy coverage groups:

- AFDC Medicaid
- Deemed AFDC Medicaid
- Transitional Medicaid
- Qualified Child Medicaid
- Poverty-Level Pregnant Woman
- Poverty-Level Child
- SSI Medicaid
- Deemed SSI Medicaid

Medicaid eligibility begins up to three months prior to the month of application, providing she would have met the eligibility criteria, and concludes when the cancer treatment ends or when she is no longer eligible. For example, she attains age 65 or obtains creditable insurance. Coverage is not limited to charges related only to cancer treatment, and there is no limit to the number of eligibility periods for which a woman may qualify.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy clearly specifies that Medicaid coverage under the Breast and Cervical Cancer Program concludes when cancer treatment ends.
- 2) Documentation from the Office of Maternal, Child and Family Health verifies that the Claimant's cancer treatment concluded on November 14, 2005.
- 3) While the Claimant testified that she has other medical problems that require attention, the Department's decision to discontinue Medicaid coverage under the Breast and Cervical Cancer Program is valid since the Claimant no longer receives cancer treatment.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate the Claimant's Medicaid benefits.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2<sup>nd</sup> Day of March, 2006.**

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**Pamela L. Hinzman  
State Hearing Officer**