



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

September 13, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 1, 2006. 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: 06-BOR-2307**

**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 September 1, 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 September 1, 2006 on a timely appeal, filed June 22, 2006.

**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  
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 Application for Medicaid dated April 5, 2006
- D-2 General Physical, (DFA RT-5)
- D-3 Letter from D.O. [REDACTED] of Gastroenterology dated April 11, 2006
- D-4 Physician's Summary dated April 12, 2006
- D-5 MRT denial report dated April 27, 2006
- D-6 Denial letter dated May 23, 2006
- D-7 Denial letter dated June 3, 2006
- D-10 WV Income Maintenance Manual §5.2 and §12.2

**VII. FINDINGS OF FACT:**

- 1) The Claimant completed an application for SSI-Related Medicaid on April 5, 2006. The process to obtain a General Physical report was started. Mr. \_\_\_\_\_ was to attempt to find a physician that would accept DHHR payment for the physical.
- 2) The claimant was hospitalized and was able to get the attending physician to complete the General Physical document and a Physicians Summary.
- 3) The General Physical stated that the claimant would not be able to work full time for one month. The Physician's Summary stated that he would be disabled for six to 12 months.
- 4) The General Physical, the Physicians Summary and a Social Summary were forwarded to the Department's Medical Review Team (MRT) on April 22, 2006.
- 3) MRT reviewed the Claimant's medical documentation and issued a decision on April 27, 2006. The decision stated that the material submitted was sufficient to permit a determination. The decision was that the claimant was not disabled. It indicated that the DFA-RT5 states able to work and that he does not qualify for MAO-D.

- 4) Mr. \_\_\_\_\_ has Crohns Disease and is in need of an expensive medication known as Remecade to relieve symptoms so he can work. He tried to work for one week and the pain would not permit him to work.
- 5) 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 Officer would advise the claimant to pursue Medicaid through the MWIN program in the event that he finds he can work part time with his condition.

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 13th Day of September 2006.**

---

**Sharon K. Yoho  
State Hearing Officer**