



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph. D.  
Cabinet Secretary

October 12, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 11, 2011. Your hearing request was based on the Department of Health and Human Resources' action to terminate your eligibility for Transitional Phase II extended medical coverage.

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 Medicaid Program (Transitional) is based on current policy and regulations. One of these regulations specifies that if the client returns a completed PRL3 form, he has met one of the eligibility requirements for Phase II coverage. Failure to return a completed form, without good cause, by the 1<sup>st</sup> work day after the 20<sup>th</sup> of the 4<sup>th</sup> month, automatically renders the AG ineligible to participate in Phase II. [WV Income Maintenance Manual Section 16.5,C]

Information submitted at your hearing fails to demonstrate that you meet the criteria necessary to establish eligibility for Phase II Transitional medical coverage.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in terminating your eligibility for Phase II Transitional medical coverage.

Sincerely,

Cheryl A. Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Tera Pendleton, [REDACTED] DHHR

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

**IN RE:**       -----,

**Claimant,**

v.

**ACTION NO.: 11-BOR-1842**

**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 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 11, 2011.

**II. PROGRAM PURPOSE:**

Transitional Medicaid coverage is provided to families who lose eligibility for AFDC Medicaid because of earned income, the loss of earned income disregards or the number of hours worked. Transitional Medicaid <sup>TM</sup> provides continuing medical coverage after AFDC Medicaid eligibility ends and is provided in two phases, each of which extends for a maximum period of six months.

**III. PARTICIPANTS:**

-----, Claimant  
Tera Pendleton, Department representative

Presiding at the hearing was Cheryl A. Henson, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department was correct in its action to deny the Claimant's eligibility for Phase II Transitional Medicaid.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 16.5

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

**Department's Exhibits:**

- D-1 Case comments from Department's computer system
- D-2 Transitional Medicaid form dated May 23, 2011
- D-3 Notification letter dated July 19, 2011
- D-4 Notification letter dated August 22, 2011
- D-5 West Virginia Income Maintenance Manual §16.5

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) On or about May 23, 2011, the Claimant was actively receiving Phase I Transitional Medicaid when the Department sent her a periodic report form (D-2) which informed her of the following pertinent information:

If you want to be considered for Transitional Medicaid, please complete and return this form.

Please provide the information below and return the entire letter to the local DHHR office address shown at the top of this letter. You must return it on or before 06/21/11. If you do not return this letter by the date due, you may become ineligible for any other Transitional Medicaid coverage the Department provides.

Please show how much you earned and how much you paid for day care in 03/2011, 04/2011, and 05/2011.

- 2) The Department contends that the Claimant did not complete and return the form (D-2) as instructed, and that as a result her Transitional Medicaid was stopped at the end of her Phase I

coverage. The Department sent the Claimant a notification letter (D-3) dated July 19, 2011, which included the following pertinent information:

#### Transitional Medical Assistance

1. ACTION: You will receive you last Medical Card in July 2011.
2. REASON: You failed to return a completed Periodic Report Form that was due by 06/21/11. Failure to return this form reporting your gross income and day care expenses results in closure of Medical Assistance.

If you are eligible for any other type of Medical Assistance your will be notified.

- 3) The Claimant contends that she does not recall receiving the Periodic Report Form (D-2) from the Department; however, she added that she received the Department's notice (D-3) informing her that her eligibility for medical coverage was ending. Both the Periodic Report Form and the notification letter were sent to the Claimant at the same address. She stated that after she received the notification letter (D-3) which informed her that her last medical card would be received in July 2011, she contacted the Department immediately and was told she needed to return to the Department and reapply for benefits. The Department's case comments (D-1) show that the Claimant contacted the Department on July 21, 2011, and corroborate her testimony in regard to her being informed that she needed to reapply for benefits. The case comments (D-1) also show that the Claimant returned to the Department's ██████████ County, West Virginia, Department of Health and Human Resources office completed a review of eligibility on September 2, 2011.
- 4) Although the Claimant acknowledged that she did not complete and return a Periodic Report Form, she contends that the Department was not correct in terminating her medical coverage because she is in need of the medical coverage.
- 5) West Virginia Income Maintenance Manual, Chapter 16.5,C states in pertinent part:

#### TRANSITIONAL MEDICAID

This coverage group consists of families which lose eligibility for AFDC Medicaid because of earned income, the loss of earned income disregards of the number of hours worked. TM [Transitional Medicaid] provides continuing medical coverage after AFDC Medicaid eligibility ends and occurs in 2 phases as described below.

RAPIDS [Department's computer system] letter PRL3 [Periodic Report Form] is mailed to the client by the 3<sup>rd</sup> Friday of the 3<sup>rd</sup> month.

If the client returns the completed PRL3 form, he has met one of the eligibility requirements for Phase II coverage.

Failure to return a completed form, without good cause, by the 1<sup>st</sup> work day after the 20<sup>th</sup> of the 4<sup>th</sup> month, automatically renders the AG ineligible to participate in Phase II, after proper notice. The client must be notified of the consequences of his actions when the form is not returned by the due date without good cause or is returned but is incomplete. The Worker must not wait until the end of Phase I coverage to notify the client of his ineligibility for Phase II. The process of determining eligibility or ineligibility, based on this reporting requirement, is completed prior to the end of Phase I coverage.

The good cause determination is made by the Worker and Supervisor and must be based on reasonable expectations; these generally will involve situations over which the client has little control.

If the client provides the completed form within the 13-day notice period, this part of the eligibility requirement for Phase II is reestablished.

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

- 1) Policy provides that failure to return a completed Periodic Report Form, without good cause, by the 1<sup>st</sup> work day after the 20<sup>th</sup> of the 4<sup>th</sup> month, automatically renders the AG ineligible to participate in Phase II medical coverage. The good cause determination is made by the worker and supervisor and must be based on reasonable expectations; these generally will involve situations over which the client has little control.
- 2) The Claimant acknowledged that she did not complete and return the Periodic Report Form. Although she stated that she does not recall receiving the form, the evidence shows that she received additional mail from the Department around the same timeframe. There is also no evidence that she reported not receiving the Periodic Report Form when she contacted the Department on July 21, 2011.
- 3) Since there is no evidence the Claimant reported non-receipt of the Periodic Report Form, the Department would have no information by which to make a good cause determination.
- 4) Based on the evidence, the Department was correct in its decision to deny the Claimant's eligibility for Phase II Transitional Medicaid.

### **IX. DECISION:**

It is the decision of the Hearing Officer to **uphold** the action of the Department in denying the Claimant's eligibility for Phase II Transitional Medicaid.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 12<sup>th</sup> Day of October, 2011.**

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**Cheryl A. Henson  
State Hearing Officer**