



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

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

January 10, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 4, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for SSI-Related Medicaid based on a disability.

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 (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 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. [WV Income Maintenance Manual Section 12.2(A)]

Information submitted at your hearing fails to demonstrate that you meet the criteria necessary to establish a disability as defined by the SSI-Related Medicaid Program.

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,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review
Kimberly Donley, ESS, DHHR

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

-----,

Claimant,

v.

Action Number No.: 10-BOR-2136

**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 January 4, 2011 on a timely appeal filed October 22, 2010.

II. PROGRAM PURPOSE:

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

Kimberly Donley, Economic Service Supervisor (ESS), WVDHHR

Presiding at the hearing was Thomas E. Arnett, 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 application for SSI-Related (disability) Medicaid.

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 Notice of Decision dated September 23, 2010
- D-2 Disability/Incapacity Evaluation (ES-RT-3) completed by the Medical Review Team on September 15, 2010
- D-3 WVIMM Chapter 16.9
- D-4 Medical Documentation submitted to the Medical Review Team

VII. FINDINGS OF FACT:

- 1) On April 28, 2010, the Claimant completed an application for SSI-Related Medicaid. The Claimant's medical records (D-4) were secured Weirton Medical Center and Family Medical Center and forwarded to the Medical Review Team, hereinafter MRT, for a disability evaluation.
- 2) On or about September 23, 2010, the Claimant was notified (D-1) that his application for Medicaid was denied. This notice states, in pertinent part – This individual is not Aged, Blind, or Disabled which is a requirement for this Medicaid coverage.
- 3) The MRT's notes from the disability evaluation are documented in Exhibit D-2. The MRT indicated that the Claimant is not disabled and noted in section IV.E., "No covered disability conditions documented. The above does not qualify for MAO-D 1yr."
- 4) As a matter of record, the Claimant testified that he is not disabled but that he is unable to work as much or as hard because he is in pain from arthritis. He stated that he needs medical benefits for routine medical care and assistance with prescription drug costs.
- 5) A review of the medical documentation submitted to the MRT includes various physician, radiology and laboratory results. A Physician's Summary was completed by -----, CRNP, NP, a Family Nurse Practitioner at the Family Medical Center. ----- indicated that the Claimant was last seen by her on May 5, 2010 for right leg pain. She listed his prognosis as fair and indicated "unknown" with regard to the length of time his incapacity/disability was expected to last. Employment limitations include the following statement – "----- feels he cannot work due to the amount of pain he is experiencing. Diagnostic studies have not really found a cause for his pain."

6) West Virginia Income Maintenance Manual, Chapter 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.

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) The Code of Federal Regulations, found at 20 CFR §404.1509, & 404.1520, provides the following guidelines:

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 - Code of Federal regulations, states:

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.

VIII. CONCLUSIONS OF LAW:

- 1) Regulations provide that 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. Impairment must result from anatomical, physiological or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques.
- 2) The Claimant testified that he is not disabled but that he needs assistance paying for his medical care and prescriptions. The medical documentation reviewed corroborates the Claimant's statement – the Claimant is not disabled.
- 3) Based on the evidence, the Department has followed proper procedure in determining that the Claimant does not qualify for SSI-Related Medicaid.

IX. DECISION:

It is the decision of the Hearing Officer to **uphold** the action of the Department in denying the Claimant's 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 ____ Day of January, 2011.

**Thomas E. Arnett
State Hearing Officer**