



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review

Earl Ray Tomblin  
Governor

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

May 6, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 19, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your SSI-Related Medicaid application based on a finding by the state Medical Review Team that you are not disabled.

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 SSI-Related Medicaid program is based on current policy and regulations. These regulations provide that the definition of disability for Medicaid purposes is the same as the definitions used by the Social Security Administration 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 (West Virginia Income Maintenance Manual § 12.2 A).

The information submitted at your hearing revealed that you do not meet the definition of disability and do not qualify for SSI-Related Medicaid.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to deny your SSI-Related Medicaid application.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Phyllis Billings, Economic Service Supervisor

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

-----,

**Claimant,**

v.

**Action Number: 11-BOR-612**

**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 11, 2011 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.

**II. PROGRAM PURPOSE:**

The Program entitled SSI-Related Medicaid is 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  
Phyllis Billings, Economic Service Supervisor

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's decision to deny Claimant SSI-Related Medicaid is correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Policy Manual § 12.2 A  
20 CFR § 404.1505 - 404.1545 & 20 CFR § 404.1594, Code of Federal Regulations

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

**Department's Exhibits:**

- D-1 Hearing/Grievance Request Notification
- D-2 Hearing Request received December 30, 2010
- D-3 Denial Notification Letter dated December 16, 2010
- D-4 WV Income Maintenance Manual § 12.11
- D-5 Correspondence from Medical Review Team
- D-6 Medical Review Team Medical Packet
- D-7 Department's Summary

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) Claimant applied for SSI-Related Medicaid on August 20, 2010. A referral was made to the state Medical Review Team (MRT) to evaluate Claimant for disability. A decision was received from MRT on December 15, 2010, which read in pertinent part (D-4):

After considering all information a decision has been made that the above client is not disabled.

No physical disabilities noted. Client is diagnosed pain disorder. He exhibits mild functional limits as a result of mental impairment.

- 2) Claimant testified that he has cataracts in both eyes and needs surgery to correct his vision. Claimant stated he was evaluated by an ophthalmologist in August 2010 and was advised that he needed surgery immediately. Claimant stated his vision is blurry and is getting progressively worse. Claimant stated he failed his driver's examination due to his vision loss.

Claimant stated he worked as a correctional officer for 20 years, and last worked in 2005 when he had a back injury. Claimant stated he has some college education and plans on applying for Social Security.

3) The examination by [REDACTED] ophthalmologist on August 4, 2010 diagnosed Claimant with bilateral cataracts and recommended surgery to correct his vision. Claimant's vision without correction is 20/100 in both eyes (D-4).

4) WV Income Maintenance Manual § 12.2 A states:

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.

5) 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 § 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 § 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 dual functional capacity, age, education, and past work experience? (20 CFR § 404.1520f)

6) 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)

7) 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) Claimant is not performing substantial gainful activity as defined in 20 CFR § 404.1510.
- 2) Claimant's eye impairment is expected to last indefinitely unless corrected by surgery.
- 3) Medical documentation submitted fails to establish a severe impairment as set forth in 20 CFR § 404.1520. Claimant's vision, without correction is 20/100 in both eyes. In order to meet the listed impairment of vision loss, Claimant's vision without correction is required to be at least 20/200.
- 4) Claimant fails to meet the definition of disability and does not qualify for SSI-Related Medicaid.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny Claimant SSI-Related Medicaid.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 6<sup>th</sup> day of May 2011.**

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**Kristi Logan  
State Hearing Officer  
Member, Board of Review**