



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

Board of Review
P.O. Box 1736
Romney, WV 26757

Earl Ray Tomblin
Governor

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

June 2, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 31, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your SSI Related Medicaid.

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 SSI Related Medicaid program is based on current policy and regulations. These regulations provide that if the Medical Review Team requests an additional medical examination, and the client fails to keep the appointment without good cause, the application is denied or the case is closed if it was a presumptive approval. If the client has good cause, the worker schedules another appointment (West Virginia Income Maintenance Manual § 12.8).

The information submitted at your hearing revealed that you did not have good cause for failing to attend your scheduled psychological evaluation.

It is the decision of the State Hearing Officer to Uphold the action of the Department to terminate your SSI Related Medicaid benefits.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Ann Hubbard, Economic Service Supervisor

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-971

**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 a timely appeal, filed April 6, 2011.

It should be noted here that the Claimant's benefits under the SSI Related Medicaid program continue at the previous level of determination pending a decision from the State Hearing Officer.

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
Ann Hubbard, Economic Service Supervisor

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to terminate the Claimant' SSI Related Medicaid benefits for failing to keep an appointment, without good cause.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 12.8

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Information sent to Medical Review Team dated November 22, 2010
- D-3 Additional Medical Request dated January 6, 2011
- D-4 Memorandum from [REDACTED] dated February 21, 2011
- D-5 Notice of Decision dated February 28, 2011
- D-6 West Virginia Income Maintenance Manual § 12.8

VII. FINDINGS OF FACT:

- 1) On October 4, 2010, the Claimant completed a redetermination to determine her continued medical eligibility for the SSI Related Medicaid program.
- 2) On November 22, 2010, the Department submitted the Claimant's medical information (Exhibit D-2) to the Medical Review Team, hereinafter MRT, for an evaluation to determine if the Claimant was medically incapacitated or disabled.
- 3) On January 6, 2011, the Department received Exhibit D-3, Additional Medical Request from MRT. This exhibit documents in pertinent part:

The medical and/or social information furnished on this case is not sufficient to enable the reviewing physician to determine whether disability or incapacity exists. The reviewing physician is requesting the following information before a decision can be made: Psychological Evaluation w/IQ 90801, 96101.

Ms. Ann Hubbard, Economic Service Supervisor testified that the Department contacted [REDACTED] to schedule a psychological evaluation for the Claimant.

- 4) On February 21, 2011, [REDACTED] notified the Department that the Claimant failed to keep her scheduled appointment for the psychological evaluation. Exhibit D-4, Memorandum from [REDACTED] documents in pertinent part:

This is to inform you that ----- did not show for her scheduled appointment for a psychological evaluation on February 21, 2011, at 9:00 a.m., and made no contact with this office to change or cancel the appointment. We will not be rescheduling her unless we hear from you.

- 5) On February 28, 20011, the Claimant was issued Exhibit D-5, Notice of Decision which documents in pertinent part:

Action: Your SSI Related Medicaid for the Aged, Blind and Disabled benefits will stop. You will not receive this benefit after March 2011.

Reason: Individual is not Aged, Blind or Disabled which is a requirement for this Medicaid Coverage.

- 6) The Claimant purported that her appointment for the psychological evaluation was changed on three different occasions. The Claimant stated that the Social Security Administration scheduled an appointment with [REDACTED] on April 1, 2011 and she believed that she could submit the information from that appointment to the Department for Medicaid purposes. However, she was informed that those records were the property of the Social Security Administration and could not be forwarded to the Department.
- 7) West Virginia Income Maintenance Manual § 12.8 documents in pertinent part:

Appointments for Medical Examinations Requested By MRT

If MRT request an additional medical examination, and the client fails to keep the appointment, without good cause, the application is denied or the case is closed if it was a presumptive approval.

If the client has good cause, the Worker schedules another appointment.

When the Worker denies the application or stops the benefit, he must notify MRT of the action. The Worker must record the action taken in the case record.

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that if the client fails to keep an appointment, without good cause, for an additional medical examination requested by the Medical Review Team, the application is denied or the case is closed.
- 2) Evidence reveals that the Claimant failed to attend a scheduled psychological evaluation on February 21, 2011. The Claimant failed to present good cause for her failure to attend the scheduled appointment; therefore, the decision to terminate the Claimant's SSI Related Medicaid benefits is warranted.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department to terminate the Claimant's 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 June, 2011.

Eric L. Phillips
State Hearing Officer