



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

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

June 26, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 22, 2012. Your hearing request was based on the Department of Health and Human Resources' termination of Transitional Medicaid (TM).

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 TM Program is based on current policy and regulations. This policy states that an individual receiving the first phase of TM must report gross earnings and day care costs by a specified deadline. Failure to comply with this reporting requirement without good cause renders the assistance group ineligible to participate in the second phase of TM (West Virginia Income Maintenance Manual, Chapter 16.5.C.1.f).

The information that was submitted at your hearing revealed that you did not comply with reporting requirements to receive the second phase of TM coverage, and failed to establish good cause for this non-compliance.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your TM coverage.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Martha Thacker, Department Representative

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1082

**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 June 26, 2012, for ----- . This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing was convened on May 22, 2012, on a timely appeal, filed April 12, 2012.

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.

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 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
Martha Thacker, Department representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to terminate the Transitional Medicaid coverage of the Claimant based on failure to comply with the reporting requirements of the program without good cause.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 16.5.C.1.f

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Hearing/Grievance Request Notification form
- D-3 Periodic Report form dated January 23, 2012
- D-4 Termination notice dated March 2, 2012
- D-5 Notification dated March 5, 2012
- D-6 Appointment letter dated February 24, 2012
- D-7 Notification letter dated February 16, 2012
- D-8 West Virginia Income Maintenance Manual, Chapter 16.5.C.1.f
- D-9 West Virginia Income Maintenance Manual, Chapter 9.5; 9.6

VII. FINDINGS OF FACT:

- 1) Martha Thacker, representative for the Department, testified that the Claimant – a recipient of Transitional Medicaid (TM) – was mailed a Periodic Reporting form (Exhibit D-3) on or about January 23, 2012. This form states in pertinent part:

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 02/21/12. If you do not return this letter by the date due, you may become ineligible for any other Transitional Medicaid coverage the Department provides.

- 2) Ms. Thacker testified that the Department did not receive the completed form from the Claimant. The Claimant testified that she did not complete and submit this form. The Department notified the Claimant of termination of her TM coverage (Exhibit D-4) on or about March 2, 2012. This notice states in pertinent part:

1. ACTION: Your Transitional Medicaid benefits will stop. You will not receive this benefit after MARCH 2012.
2. REASON: You did not comply with periodic reporting requirements.

- 3) The West Virginia Income Maintenance Manual specifies the reporting requirements for an individual to continue TM coverage from Phase I into Phase II at Chapter 16.5.C.1.F. This policy states as follows (emphasis added):

f. Client's Reporting Requirements

The client is required to report his gross earnings and day care costs for the first 3 months of Phase I coverage by the 1st work day after the 20th of the 4th month. He is also required to report the earnings and day care costs of any person in the home who is included in the AFDC Medicaid Income Group. In addition, he must report his gross earnings and day care costs for the last 3 months of Phase I coverage by the 1st work day after the 20th of the 1st month of Phase II coverage.

RAPIDS letter PRL3, is mailed to the client by the 3rd Friday of the 3rd 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 1st work day after the 20th of the 4th 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 client has a right to a Fair Hearing on this issue since future eligibility is involved. 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 PRL3 must be filed in the case record.

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.

A RAPIDS alert notifies the Worker when the form is due.

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

- 4) The Claimant testified that she did not return the Periodic Reporting form (Exhibit D-3) because she did not receive it in the mail. She testified that she received other letters from the Department that were mailed to her Post Office box. Ms. Thacker testified that the Department mailed the form to her Post Office box, and that the Department has not received any returned mail from the Claimant.

VIII. CONCLUSIONS OF LAW:

- 1) The policy for TM coverage requires completion of a periodic reporting form to continue benefits from Phase I to Phase II of the program. If this form is not completed, coverage is terminated, unless good cause is established. There is no dispute that the Claimant did not complete and return this periodic reporting form.
- 2) The testimony of the Claimant – that she did not receive this periodic reporting form in the mail – is unconvincing given the letters that she reports she did receive from the Department around the same time period and the testimony from the Department that there was no returned mail from the Claimant. Good cause for failure to comply with reporting requirements is not established, and the Department was correct to terminate the TM coverage of the Claimant.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's termination of the Claimant's Transitional Medicaid coverage.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of June, 2012.

**Todd Thornton
State Hearing Officer**