



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

August 1, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 31, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny SSI-Related Medicaid based on a disability determination by the state Medical Review Team.

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 state 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 medical criteria to receive SSI-Related Medicaid.

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

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Murriel Hylton, Economic Service Supervisor

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1314

**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 ----- held on July 31, 2012, by videoconference. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources' Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed March 6, 2012.

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
-----, Witness for Claimant
-----, Witness for Claimant

Murriel Hylton, Economic Service Supervisor

Presiding at the hearing was Kristi Logan, 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's decision to deny Claimant SSI-Related Medicaid was 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 Requests received March 6, 2012, and May 14, 2012
- D-3 Denial Notification Letter dated January 10, 2012, and Disability/Incapacity Evaluations dated January 3, 2012, and May 14, 2012
- D-4 Medical Review Team Packet
- D-5 WV Income Maintenance Manual § 12.2, 12.3 and 12.4
- D-6 Department's Summary

VII. FINDINGS OF FACT:

- 1) Claimant applied for SSI-Related Medicaid in November 2011. A referral was made to the state Medical Review Team (MRT) to evaluate Claimant for disability. The Department received MRT's decision on January 3, 2012, which reads in pertinent part (D-3):

After considering all information a decision has been made that the above client is not: Disabled – SSI-Related Medicaid 18/Over

Examination report of 12/07/11 shows you are being treated for foot fracture and diabetes M1. With continued treatment this would not be expected to cause a one year disability.

- 2) Claimant was referred to a psychologist for an evaluation on January 30, 2012, which was submitted to MRT for a reconsideration of the denial. Claimant submitted a statement from his primary physician dated February 23, 2012, which was also submitted with the request for reconsideration (D-4). The Department received MRT's decision of the reconsideration on May 14, 2012, which reads in pertinent part (D-4):

After considering all information a decision has been made that the above client is not: Disabled – SSI-Related Medicaid 18/Over

No covered disability conditions documented. The above does not qualify for MAO 1yr. [SSI-Related Medicaid]

After considering all information a decision has been made that the above client is not mentally: Disabled – SSI-Related Medicaid 18/Over

Deny – ct [client] is dxed [diagnosed] GAD [general anxiety disorder]. He exhibits mild functional limits which would not prevent work activity

- 3) -----, Claimant's father, testified Claimant was no longer eligible for children's Medicaid after he turned nineteen. ----- stated Claimant has juvenile diabetes and his insulin and supplies cost \$1000 a month. Claimant's parents have been buying the insulin for him and his doctor provides samples when needed, but the expense is a financial strain on the family.
- 4) Claimant testified he was diagnosed with diabetes type 1 when as a child. He is completely dependent on his insulin and without it would lapse into a diabetic coma. He sees an endocrinologist, -----, who prescribes the insulin. Claimant stated juvenile diabetes is a lifelong illness, meeting the 12-month disability requirement. Claimant works part-time and will return to college in a few weeks. Claimant stated he intends to continue working when classes resume.

Claimant stated the physician he was referred to in December 2011 for general physical only discussed a foot fracture he had at the time. Claimant stated his diabetes was not really discussed.

- 5) Murriel Hylton, Economic Service Supervisor, stated Claimant was referred to a physician for a general physical because the Department did not have current medical records for Claimant. Ms. Hylton stated they were unaware Claimant saw ----- on a regular basis and did not request medical records from her. Ms. Hylton stated they requested Claimant have a psychological evaluation in hopes his anxiety disorder coupled with a diagnosis of diabetes would gain Claimant a disability approval from MRT.
- 6) The report of the general physical from December 7, 2011, reads in pertinent part (D4):

Diagnosis: fractured 3 bones in rt. [right] foot 11/11 – presently using brace; juvenile diabetes on insulin pump

Is applicant able to work full-time at customary occupation or like work:

Yes

Is applicant able to perform other full-time work: Yes

What work situations, if any, should be avoided: None

Duration of inability to work full-time: N/A

- 7) The report of the psychological evaluation from January 30, 2012, reads in pertinent part (D-4):

Diagnosis: Generalized anxiety disorder
Prognosis: Good w/ available support
Length of Time Incapacity/Disability is Expected to Last: minimum one year
Employment Limitation: He is unable to continue full time college attendance

- 8) A note written on a prescription pad by -----, MD dated February 23, 2012, reads (D-4):

[Claimant] has T1 DM [type 1 diabetes mellitus] a lifetime (not 12 month) illness. He will need insurance coverage or he will die

- 9) 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 is expected to last for a continuous period of not less than 12 months or can be expected to result in death.

- 10) 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)

- 11) 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)

- 12) 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)

- 13) 20 CFR § 404, Sub Part P, App. 1, 9.08 states:

Diabetes mellitus with:

Neuropathy demonstrated by significant and persistent disorganization of motor function in two extremities resulting in sustained disturbance of gross and dexterous movements, or gait and station, or

Acidosis occurring at least on the average of once every 2 months documented by appropriate blood chemical tests, or

Retinitis proliferans; evaluate visual impairment

VIII. CONCLUSIONS OF LAW:

- 1) Claimant was not performing substantial gainful activity as defined in 20 CFR § 404.1510 at the time of application.
- 2) Claimant's impairment is expected to last at least 12 months as required in 20 CFR § 404.1509.
- 3) Claimant has a listed impairment of diabetes mellitus. However, medical documentation failed establish the severity of this condition to meet the guidelines as found in 20 CFR § 404, Sub Part P, App. 1, 9.08. Claimant's impairment does not significantly limit his physical or mental ability to perform work activities; therefore Claimant does not meet the criteria for disability.
- 4) The Department correctly denied Claimant's application 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 1st day of August 2012

**Kristi Logan
State Hearing Officer**