



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

September 14, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 11, 2012. Your hearing request was based on the Department of Health and Human Resources' denial of SSI-Related Medicaid based on a disability determination by the 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 documentation submitted at your hearing was insufficient to establish a severe impairment as required by policy to qualify for 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  
Tera Pendleton, Economic Service Supervisor

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

**IN RE:** -----,

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-1540**

**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 September 11, 2012. 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 June 18, 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  
Tera Pendleton, Economic Service Supervisor (testified by phone)

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 denial of SSI-Related Medicaid for Claimant 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 Case Comments (CMCC) from RAPIDS Computer System
- D-2 Medical Review Team Packet and Decision
- D-3 Denial Notification Letter dated May 24, 2012
- D-4 WV Income Maintenance Manual § 12.11 A(2)

**VII. FINDINGS OF FACT:**

- 1) Claimant applied for SSI-Related Medicaid on February 16, 2012. Medical records were submitted to the Medical Review Team (MRT) for a disability determination for Claimant. A decision from MRT was issued on May 16, 2012, which reads in pertinent part (D-2):

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

No physical disabilities noted. The above does not qualify for MAO-D [Medicaid based on disability].

Deny – Ct [client] is dxed [diagnosed] Depressive D/O NOS [disorder not otherwise specified]. He exhibits moderate functional limits which would not prevent work activity.

- 2) Claimant testified he was admitted to ----- Medical Center in February 2012 due to chest pains and shortness of breath. He has previously had two (2) heart attacks and a stroke. Claimant's medications include aspirin, Lisinopril, Simvastatin and Celexa.

Claimant stated he last worked in 2011 in ----- as a welder, forklift operator and factory worker. He was also a coal miner when he lived in West Virginia, but had to quit when he had a heart attack. Claimant stated he is a high school graduate and has applied for Social Security disability benefits. Claimant feels is unable to work due to his heart condition, noting that he did not understand why his psychological condition was evaluated as that is not the reason why he cannot work.

- 3) Pertinent parts of the discharge summary from ----- Medical Center dated February 12, 2012 document (D-2):

Discharge Diagnoses: chest pain of questionable etiology, coronary artery disease status post right coronary artery Cypher stent at Emory University 5 years ago, hypertension, hyperlipidemia, remote cerebrovascular accident.

Hospital Course and Labs: He was admitted to a monitored bed where cardiac enzymes were obtained and were negative for ischemia. Negative for infarction [*sic*]. He was seen in consultation by Dr. -----, and an echocardiogram was done, which revealed inferior wall hypo with an EF of 30-35%. He then underwent nuclear stress testing which revealed inferior scar, but EF appeared to be 40% and therefore Dr. ----- felt that ICD evaluation was not warranted at the present time.

- 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 is 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) Medical records were insufficient to establish Claimant's medical condition is expected to last at least 12 months, pursuant to 20 CFR § 404.1509. Additionally, medical records did not document a severe impairment as listed in 20 CFR § 404, Sub Part P, App. 1.
- 3) Claimant does not meet the medical criteria required to receive 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 14<sup>th</sup> day of September 2012**

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**Kristi Logan**  
**State Hearing Officer**