



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

October 17, 2012

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 10, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate Medicaid Work Incentive (M-WIN) benefits 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 M-WIN program is based on current policy and regulations. These regulations state that in order to be eligible for M-WIN, an individual must meet disability criteria established by the Social Security Administration. If a person is determined to be no longer disabled, he is evaluated automatically as Medically-Improved for the M-WIN Program (WV Income Maintenance Manual § 23.12).

The information submitted at your hearing revealed that the Department failed to provide adequate justification for its determination that you are no longer disabled, or its decision that you are ineligible to receive M-WIN Medically-Improved benefits..

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to terminate your M-WIN benefits.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Chloe Philip, Economic Service Worker

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

IN RE: ----,

Claimant,

v.

ACTION NO.: 12-BOR-2112

**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 held on October 10, 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 August 20, 2012.

It should be noted here that the Claimant's benefits under the Medicaid Work Incentive program have continued pending a decision.

II. PROGRAM PURPOSE:

The Medicaid Work Incentive (M-WIN) coverage group was established by West Virginia Legislation to assist individuals with disabilities in becoming independent of public assistance by enabling them to enter the workforce without losing essential medical care. To be eligible, a person must be disabled according to the Social Security Administration definition and must be engaged in competitive employment. Participants pay an enrollment fee and a monthly premium.

III. PARTICIPANTS:

----, Claimant

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

Chloe Philip, Economic Service Worker

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 proposal to terminate Claimant’s M-WIN benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 12.2(A), 23.4 and 23.12

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department’s Exhibits:

- D-1 Department’s Summary
- D-2 Hearing/Grievance Request Notification, Hearing Request received August 20, 2012, and Scheduling Order
- D-3 Notification Letter dated August 15, 2012
- D-4 WV Income Maintenance Manual § 12.11 A and 12.13
- D-5 Case Comments (CMCC) from RAPIDS Computer System
- D-6 Medical Review Team Packet

VII. FINDINGS OF FACT:

- 1) Claimant had re-evaluation for medical eligibility for M-WIN benefits in April 2012. Medical records were submitted to the state Medical Review Team (MRT) for a disability determination. The Department issued Claimant a notification letter (D-3) on August 15, 2012, which reads in pertinent parts:

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

- Disabled – SSI-Related Medicaid
- Disabled – Medicaid Work Incentive
- Disabled – Medical Work Incentive – Medically-Improved

DFA-RT-8a of 5/10/12 states employment limitations “none”. The above does not qualify for MAO-D [SSI-Related Medicaid]/M-WIN.

- 2) Claimant testified she has as history of prolactinomas, which are tumors of the pituitary gland. Claimant stated they are benign, but are recurring and have multiple side effects. Claimant stated she suffers from migraines, has visual problems and gynecological problems as a result of the prolactinomas. Claimant stated she has regular blood work,

CT scans and MRIs to monitor her condition. Claimant stated her condition has not improved in the past year.

- 3) The DFA-RT-8a (D-6) from ----, MD, dated February 21, 2012, documents:

Diagnosis: Microadenomas of pituitary gland and galactorrhea,
headache, sleepy
Prognosis: Good
Length of Time Incapacity/Disability is Expected to Last: None
Employment Limitation: None

- 4) The DFA-RT-8a (D-6) from ----, MD, dated May 10, 2012, documents:

Diagnosis: Ocular hypertion and history of pituitary tumor – small visual
field defect on left [eye]
Prognosis: Good
Length of Time Incapacity/Disability is Expected to Last: None
Employment Limitation: None

- 5) The DFA-RT-8a (D-6) from ----, MD, dated May 24, 2012, documents:

Diagnosis: Amenorrhea
Prognosis: Good
Length of Time Incapacity/Disability is Expected to Last: None
Employment Limitation: None

- 6) The DFA-RT-8a (D-6) from ----, MD, dated May 30, 2012, documents:

Diagnosis: Vitreous syresesis
Prognosis: Good
Length of Time Incapacity/Disability is Expected to Last: Chronic but stable
Employment Limitation: None

- 7) The DFA-RT-8a (D-6) from ----, MD, dated January 10, 2011, documents:

Diagnosis: Hyperfunction of the pituitary gland
Prognosis: Good
Length of Time Incapacity/Disability is Expected to Last: None
Employment Limitation: None

- 8) WV Income Maintenance Manual § 23.12 states:

DETERMINING DISABILITY, INCAPACITY AND BLINDNESS

A. DETERMINING DISABILITY

The M-WIN applicant/recipient must meet the disability criteria established by the Social Security Administration. If the individual does not receive RSDI [Retirement, Survivors, Disability benefits] based on disability, disability must be established by MRT. See Chapter 12 for MRT procedures and requirements for both adults and children.

B. DETERMINING ELIGIBILITY FOR A MEDICALLY-IMPROVED DISABILITY

NOTE: When the information is submitted to MRT for the reevaluation of disability, an evaluation for Medically-Improved eligibility must be requested at the same time. If the individual is determined no longer disabled, he is evaluated automatically as Medically-Improved.

Eligibility for this group of individuals is determined by MRT. These are individuals who no longer meet the RSDI or SSI-Related disability definition due to a medical improvement brought about by treatments such as therapy or medication. Examples of potentially eligible individuals are those with severe mental illness, HIV/AIDS and epilepsy. See Section 23.4, D for other specific requirements.

- 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 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.

- 10) WV Income Maintenance Manual § 23.4, C states, in pertinent part:

The Department cannot determine that an individual who participates in the program is no longer disabled solely due to his employment or earned income, including self-employment; therefore, at the time of the 6-month redetermination, the Worker must insure that the disability requirement continues to be met for the new period of eligibility. The individual must be a current RSDI recipient or there must be a valid MRT decision which extends into the new eligibility period. MRT reevaluations will be completed at the time specified by MRT.

- 11) WV Income Maintenance Manual § 23.4, E includes the following information:

IMPROVEMENT IN MEDICAL CONDITION - MEDICALLY-IMPROVED GROUP

NOTE: Only individuals who originally received benefits under the M-WIN coverage group may receive this coverage as medically-improved. The medical determination is made by MRT. An M-WIN recipient who experiences an improvement in his medical condition remains eligible for coverage if he:

- Meets all other program eligibility requirements.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that an M-WIN applicant/recipient must meet the disability criteria established by the Social Security Administration. If the individual does not receive RSDI based on disability, disability must be established by MRT. When information is submitted to MRT for the reevaluation of disability, an evaluation for M-WIN Medically-Improved must be requested at the same time. If the individual is determined no longer disabled, he is evaluated automatically for M-WIN Medically-Improved benefits. These are individuals who no longer meet the RSDI or SSI-Related disability definition due to a medical improvement brought about by treatments such as therapy or medication.
- 2) The Claimant is a recipient of M-WIN benefits and has a diagnosis of benign brain tumors. She is currently employed and her condition has not improved, and is still undergoing treatment for the condition.
- 3) MRT failed to address why the Claimant's current condition does not qualify as medically-improved for the M-WIN Program. MRT's notice of decision only documented that Claimant did not have any employment limitations. Therefore, evidence fails to support the Department's position that the Claimant is no longer eligible for M-WIN benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to terminate Claimant's M-WIN benefits. Claimant will be re-evaluated for medical eligibility in April 2013.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th day of October 2012

Kristi Logan
State Hearing Officer