



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Earl Ray Tomblin  
Governor

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

April 4, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held March 29, 2012. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Transitional Medicaid Program benefits for failing to comply with periodic reporting requirements.

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 Transitional Medicaid (TM) is based on current policy and regulations. Some of these regulations state that the TM coverage group consists of families who lose eligibility for AFDC Medicaid because of earned income, the loss of earned income disregards or the number of hours worked. TM provides continuing medical coverage after AFDC Medicaid eligibility ends and occurs in two 6 month phases for a total of 12 months. An AG [Assistance Group] is eligible for Phase I coverage beginning the month following the last month of AFDC Medicaid eligibility, and eligible for Phase II coverage beginning the 1st month immediately after Phase I coverage ends. As a condition of continued eligibility, 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 1<sup>st</sup> work day after the 20th of the 1<sup>st</sup> month of Phase II coverage. (West Virginia Income Maintenance Manual Chapter 16.5, C)

The information submitted at your hearing reveals that you failed to comply with the periodic reporting requirements necessary for Phase II TM Medicaid coverage.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your Transitional Medicaid benefits.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Kimberly Donley, ESS, WVDHHR

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

---- ----,

**Claimant,**

v.

**Action Number: 12-BOR-617**

**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 March 29, 2012 on a timely appeal filed February 13, 2012.

**II. PROGRAM PURPOSE:**

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  
Kimberly Donley, ESS, WVDHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department was correct in its action to terminate the Claimant's Transitional Medicaid Program benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 16.5

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 TM Periodic Report form dated October 24, 2011
- D-2 Notice of Decision/termination dated January 3, 2012
- D-3 West Virginia Income Maintenance Manual §16.5
- D-4 West Virginia Income Maintenance Manual § 9.5
- D-5 West Virginia Income Maintenance Manual § 9.6

**VII. FINDINGS OF FACT:**

- 1) The Claimant was an active recipient of Phase I Transitional Medicaid (TM) benefits through the Department of Health and Human Resources, hereinafter Department, when he was mailed a TM Periodic Report form (Exhibit D-1) on October 24, 2011. 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 11/21/11. If you do not return this letter by the date due, you may become ineligible for any other Transitional Medicaid coverage the Department provides after the first six (6) months.

- 2) On or about January 3, 2012, the Claimant was advised via a Notice of Decision (Exhibit D-2) that his Transitional Medicaid benefits would stop after January 2012. The following reason was provided: "You did not comply with periodic reporting requirements."
- 3) The Department presented evidence to indicate that continued eligibility for Phase II TM requires the client to complete and return the TM Periodic Report form by the 1st work day after the 20th of the 4th month of TM coverage. In this case, the Claimant was required to complete and return the TM Periodic Report form on or before November 21, 2011.

- 4) The Claimant testified that he did not receive the TM Periodic Report form (Exhibit D-1) and noted that he moved, citing his new mailing address found on the termination letter dated January 3, 2012 (Exhibit D-2). The Claimant acknowledged, however, that he still had family residing at the previous address when the TM Periodic Report form was mailed by the Department to -----, WV, on October 24, 2011.
- 5) The Department provided rebuttal testimony indicating the Claimant did not report his new mailing address (-----, WV) to the Department until November 9, 2011 - approximately two (2) weeks after Exhibit D-1 was mailed. If the Claimant was not residing at that address, the U.S. Postal Service would have returned the October 24, 2011 correspondence as undeliverable because Departmental mail cannot be forwarded. Testimony proffered by the Department indicates that Exhibit D-1 was not returned by the U.S. Postal Service.
- 6) Policy found in West Virginia Income Maintenance Manual §16.5.C states that 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 (12 months total).
- 7) West Virginia Income Maintenance Manual § 16.5.C.1.f (Client's Reporting Requirements) states that 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. 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 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.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Transitional Medicaid provides continuing medical coverage after AFDC Medicaid eligibility ends. Transitional Medicaid is provided in two phases, each of which extends for a maximum period of six months (12 months total). As a condition of continued participation in the TM Program, 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. 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 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.
- 2) The Claimant was placed in Transitional Medicaid when employment made him ineligible to participate in the AFDC Medicaid Program. A review of the evidence reveals that the Claimant's Phase I TM began effective August 2011; therefore, a completed TM Periodic Report form had to be completed and returned by the first working day after the 20<sup>th</sup> of the 4<sup>th</sup> month (November 21, 2011).

- 3) Policy provides that failure to complete and return the TM Periodic Report form automatically renders the AG ineligible to participate in Phase II TM unless good cause is provided. Policy provides that good cause determinations are based on reasonable expectations, and generally involve situations over which the client has little control. The fact that the Claimant reported his change of address to the Department two (2) weeks after the TM Periodic Report form was mailed (if he was not residing at the address on or about October 24, 2011) or failed to collect his mail from household members still residing at the address, fails to demonstrate a circumstance over which he had little control.
- 4) Based on the evidence, the Department was correct in its decision to terminate the Claimant's TM coverage after January 2012.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's action to terminate the Claimant's Transitional 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 April 2012.**

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**Thomas E. Arnett  
State Hearing Officer**