



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

September 12, 2005

Dear Ms.____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 23, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your medical card.

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 Disabled Widow and Widowers Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: He is not entitled to Medicare Part A. (Section 16.6B #6 of the West Virginia Income Maintenance Manual).

The information which was submitted at your hearing revealed that you are entitled to Medicare Part A .

It is the decision of the State Hearing Officer to uphold the proposal of the Department to terminate your medical card.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Beverly McKinney, DHHR

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

____,

Claimant,

v.

Action Number: ____

**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 August 23, 2005 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 August 23, 2005 on a timely appeal, filed March 11, 1005. It should be noted that this hearing was originally scheduled for June 1, 2005. The claimant did not keep the appointment and an abandonment letter was sent on June 3, 2005. The State Hearing Officer was notified on June 15, 2005 that the claimant had notified the local office that she had to go to the doctor unexpectedly on the hearing date. The hearing was rescheduled for August 23, 2005.n

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

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.

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of

Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

_____, Claimant

_____, Claimant's Daughter

Beverly McKinney, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the claimant meets the eligibility criteria for the Widow/Widowers Medicaid coverage group. .

V. APPLICABLE POLICY:

Section 16.6B #6 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Request
- D-2 Pre-hearing Conference Notice
- D-3 Hearing Appointment Notice
- D-4 Hearing/Grievance Record Information
- D-5 Medicaid Closure Notice dated 03/03/05
- D-6 WVIMM Section 16.6
- D-7 Department's Summary
- D-8 Copy of Medicare Card

Claimants' Exhibits:

- C-1 Statement from Dr. [REDACTED]

VII. FINDINGS OF FACT:

- 1) The claimant is a Medicaid recipient as the result of being found eligible as a disabled widow.

- 2) The claimant reported to the Department on 03/02/05 that she is now eligible for Medicare Part A.
- 3) She became eligible for Medicare Part A on 03/01/05. (D-8) A termination notice was sent to the claimant dated 03/03/05. (D-5)
- 4) Section 16.6B #6 of the West Virginia Income Maintenance Manual reads in part that a widow or widower who loses SSI Benefits when RSDI benefits begin is eligible for Medicaid when all eligibility criteria is met. One of the criteria is he is not entitled to Medicare Part A. :

VIII. CONCLUSIONS OF LAW:

- 1) An individual must not have Medicare Part A in order to receive Medicaid as a disabled widow.
- 2) The claimant became eligible for Medicare Part A 03/01/05.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department acted correctly in the decision to terminate the claimant's medical card under the Disabled Widow and Widowers Medicaid Program. The Department is upheld in the proposal to terminate the claimant's medical card. The action described in the notification letter dated March 3, 2005 will be taken.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of September, 2005.

Margaret M. Mann
State Hearing Officer