



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third Street
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 19, 2005

Dear Mr. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 15, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Transitional Medicaid benefits based on failure to complete a Periodic Report Form within specified time limits.

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 is based on current policy and regulations. Some of these regulations state as follows: The client is required to report his gross earnings and day care costs for the last three months of Phase I coverage by the 21st of the first month of Phase II coverage. Failure to return a completed form, without good cause, by the 21st of the fourth month automatically renders the family ineligible to participate in Phase II, after proper notice. (West Virginia Income Maintenance Manual Chapter 16.5, 1, f)

Credible testimony was presented during your hearing to indicate that you did not receive the Periodic Report Form mailed to you on April 26, 2005. Therefore, good cause has been established for failure to submit the form on a timely basis.

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

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Jeanett Dobbins, Family Support Specialist, 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 September 19, 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 September 15, 2005 on a timely appeal filed August 5, 2005.

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

II. PROGRAM PURPOSE:

The program entitled Transitional Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

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
_____, wife of Claimant
Jeanett Dobbins, FSS, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 Department was correct in its proposal to terminate the Claimant's Transitional Medicaid benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 16.5

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Transitional Medicaid Periodic Report Form dated April 26, 2005
- D-2 Medicaid closure letter dated July 19, 2005
- D-3 Case comments dated July 20, 2005
- D-4 Completed Periodic Report Form received July 25, 2005
- D-5 Case comments dated August 1, 2005
- D-6 Copy of Rapids PRUS screen
- D-7 Hearing request form
- D-8 Case comments dated August 8, 2005
- D-9 IG-BR-29
- D-10 Electronic mail correspondence between policy unit, family support unit and Rapids with related case comments
- D-11 Hearing appointment letter
- D-12 West Virginia Income Maintenance Manual Chapter 16.5 and Appendix A

VII. FINDINGS OF FACT:

- 1) Testimony from the Department indicated the Claimant began receiving Transitional Medicaid in February 2005.
- 2) The Claimant was issued a Periodic Report Form (D-1) via the Rapids computer system on April 26, 2005 which was to be completed and returned by May 23, 2005. The form was not returned.

- 3) The Claimant was sent a Medicaid closure letter (D-2) on July 19, 2005 which states, in part:

Action: You will receive your last medical card in July 2005.

Reason: You failed to return a completed Periodic Report Form that was due by 5/23/05. Failure to return this form reporting your gross income and day care expenses results in closure of Medical Assistance. If you are eligible for any other type of Medical Assistance, you will be notified.

- 4) The Claimant contacted the Department on July 20, 2005 and contended that he had not received the Periodic Report Form. He was issued a duplicate form (D-4), which he completed and submitted to the Department on July 25, 2005.
- 5) Ms. Dobbins testified that she corresponded with the Family Support Policy Unit (D-10) and was advised that Medicaid coverage should be terminated if information in Rapids verifies that the form was sent to the correct address. Ms. Dobbins testified that the letter had been sent to the correct address.
- 6) The ____s testified that they have had problems receiving their mail in the past. These difficulties resulted in the reissuance of a West Virginia Works support payment in December 2004, which was verified by the testimony of Ms. Dobbins. The ____s indicated that their mailbox is not locked and that another ____ family also resides on their street. Ms. Dobbins testified that she and her husband have always completed DHHR forms in the past. She stated that she has medical problems and would not ignore correspondence from the Department regarding Medicaid.
- 7) West Virginia Income Maintenance Manual Chapter 16.5, 1, f (D-12) states, in part:

He (the client) must report his gross earnings and day care costs for the last three months of Phase I coverage by the 21st of the first month of Phase II coverage.

A Rapids letter (PR L3) is mailed to the client on the first day of the fourth and sixth months. If the client returns both completed PR L3 forms, he has met one of the eligibility requirements for Phase II coverage.

Failure to return a completed form, without good cause, by the 21st of the fourth month, automatically renders the family 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 21st 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) The Claimant was mailed a Transitional Medicaid Periodic Report Form on April 26, 2005. The form was due May 23, 2005.
- 2) The Department did not receive the Periodic Report Form and a termination letter was sent to the Claimant.
- 3) The Periodic Report Form was reissued on July 20, 2005 when the Claimant reported he had not received the form. The completed Periodic Report Form was submitted to the Department on July 25, 2005.
- 4) The Department determined that good cause does not exist for failure to submit the form in a timely manner.
- 5) The ____s provided credible and reasonable testimony that they had not received the original April 26, 2005 Periodic Report Form. They testified about problems they have encountered with their mail service in the past and the Department verified that a West Virginia Works support payment had been reissued to the couple as a result of non-receipt.
- 6) Good cause has been established for failure to submit the Periodic Report Form in a timely manner since non-receipt of mail is beyond the Claimant's control.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the Department's proposal 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 19th Day of September, 2005.

**Pamela L. Hinzman
State Hearing Officer**