



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Martha Yeager Walker  
Secretary

Joe Manchin III  
Governor

Board of Review  
4190 West Washington Street  
Charleston, West Virginia 25313  
Email: raywoods@wvdhhr.org  
April 26, 2005

\_\_\_\_\_  
[REDACTED]  
Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 1, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your Medicaid application.

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 and benefit levels for the SSI-Related Medicaid Program are determined based on current regulations. One of these regulations specifies that in order to be considered disabled, an individual over 18 must be unable to engage in any substantial gainful employment by reason of any medically determined physical or mental impairment which can be expected to result in death or which can be expected to last for a continuous period of not less than twelve months. (WV Income Maintenance Manual Section 12.2 (A) (1) Definition of Disability).

The information submitted at your hearing revealed: You do not meet the State's definition of disability.

It is the decision of the State Hearing Officer to **UPHOLD** the action of the Department to deny your Medicaid application.

Sincerely,

Ray B. Woods, Jr., M. L. S.  
State Hearing Officer  
Member, State Board of Review

cc: State Board of Review  
Carol Halstead, Supervisor [REDACTED] County DHHR

# **WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES**

## **SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

### **I. INTRODUCTION**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 26, 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 conducted on March 1, 2005 on an appeal filed February 16, 2005.

It should be noted here that the Claimant was not receiving Medicaid benefits at the time of the hearing. A pre-hearing conference between the parties did not resolve the matter. Ms. \_\_\_\_\_ did not have legal representation.

All persons giving testimony were placed under oath.

### **II. PROGRAM PURPOSE**

The program entitled SSI-Related Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

SSI-Related Medicaid 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 (Provided testimony by conference call)  
Carol Halstead, Supervisor – \_\_\_\_\_ County DHHR

Presiding at the hearing was Ray B. Woods, Jr., M. L. S., State Hearing Officer and a member of the State Board of Review.

### **IV. QUESTION(S) TO BE DECIDED**

The question to be decided is whether the Claimant meets the eligibility requirement of categorical relatedness for SSI-Related Medicaid by qualifying as a disabled person as defined by the Department.

## **V. APPLICABLE POLICY**

WV Income Maintenance Manual Section 12.2(A) (1) Definition of Disability and; 20 CFR §§ 404.1505, 404.1520, 404.1510 and 404.1574

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

- D-1 ES-RT-3 (Disability/Incapacity Evaluation) dated 12/15/04
- D-2 WVIMM Chapter 12.2 DEFINITIONS OF DISABILITY AND BLINDNESS
- D-3 DFA-RT-1 (Social Summary) completed by Worker 11/12/04
- D-4 DFA-RT-2 (MRT Transmittal Memorandum) dated 12/14/04
- D-5 DFA-RT-5 (General Physical (Adults)) dated 11/23/04
- D-6 Denial Letter dated 01/07/05
- D-7 Denial Letter dated 01/10/05
- D-8 Hearing Summary
- D-9 IG-BR-40 (Scheduling Notice) dated 02/16/05
- D-10 Request for Hearing dated 01/19/05
- D-11 GroupWise Message re: Scheduling

## **VII. FINDINGS OF FACT**

1. The Claimant, who is 49 years old, applied for Medicaid on November 12, 2004 (D-3).
2. The Claimant's medical information (D-5) was sent to the Medical Review Team for consideration on December 14, 2004.
3. On January 6, 2004, a decision was received from MRT stating the Claimant is not disabled. MRT stated: "DFA-RT-5 of 11/23/04 does not reveal any disabling conditions. The above does not qualify for MAO-D."
4. A denial letter (D-6) was sent to the Claimant on January 7, 2005. It did not contain the reason for the denial. A corrected denial letter was issued on January 10, 2005. It stated,  
  
"Action: Your 11/12/04 application for Medical Assistance has been denied. Reason: This individual is not Aged, Blind, or Disabled which is a requirement for this Medicaid coverage."
5. The Claimant stated she is bothered by a diagnosis of Fibromyalgia.
6. The General Physical for Adults lists the diagnosis as Suspect Fibromyalgia and Irritable Bowel Disease.

## **VIII. CONCLUSIONS OF LAW**

1. The State's definition of disability for Medical Assistance Only is found in WV Income Maintenance Manual Section 12.2(A) and reads as follows:

- An individual who is age 18 or over is considered to be disabled if he is unable to engage in substantial gainful employment by reason of 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.
2. The State's definition of disability for Medical Assistance Only is the same as the definition used by the Social Security Administration in determining eligibility for SSI based on disability which is found at 20 CFR § 404.1505.
- There is a five-step sequence of questions to be addressed when evaluating a person's ability to perform substantial gainful activity for purposes of SSI; these are set forth in 20 CFR § 416.1520.

The first sequential step is:

Is the person performing substantial gainful activity as defined in 20 CFR § 416.910? If so, the person is not disabled.

The second sequential step is:

If not, does a severe impairment exist which has lasted or can be expected to last one year or result in death?

The third sequential step is:

If the person has a severe impairment, is the impairment a listed impairment (under 20 CFR Part 404, Subpart P, App. 1) or its medical equivalent? If so, the person is disabled.

The fourth sequential step is:

If not, what is the person's residual functional capacity (20 CFR 404.1545) and can that person still perform his or her former work? If so, the person is not disabled.

The fifth and final step is:

If not, can the person do any other work, based upon the combined vocational factors of residual functional capacity, age, education, and past work experience? If not, the person is disabled.

## **IX. DECISION**

Regulations are clear that in order to qualify as disabled, an individual must suffer a severe impairment and this impairment must have lasted or be expected to last for a continuous period of 12 months. A severe impairment is defined as an impairment which significantly limits an individual's physical or mental ability to do basic work activities. An individual who is 18 years of age or older is considered disabled if that person is unable to engage in any substantial gainful activity as a result of such impairment.

Utilizing the sequential step process to determine disability:

(1) Is the person performing substantial gainful activity?

Evidence reveals the Claimant is not employed.

(2) Does a severe impairment exist which is expected to last one year or result in death? No.

(3) If the person has a severe impairment, is the impairment a listed impairment?  
Evidence fails to establish the existence of a "listed impairment."

(4) What is the person's Residual Functional Capacity and can that person still perform his or her former work?

Testimony reveals the Claimant periodically performed clerical work between 1989 through 2002. There is nothing stating the claimant could not resume these types of duties.

(5) Can the person do any other work based upon the combined vocational factors of residual functional capacity, age, education and past work experience?

The Claimant is 49 years old with a G. E. D. Her experience in the various clerical positions is readily transferable to another occupation. She does not meet the disability criteria located in Rule 201.14 of 20 CFR 404 in regard to her Residual Functional Capacity.

Based on evidence presented during the hearing, I find the Claimant is not disabled for purposes of the Medicaid Program. It is the decision of the State Hearing Officer to **UPHOLD** the action of the Agency to deny the Claimant's SSI-Related Medicaid application.

## **X. RIGHT OF APPEAL**

See Attachment.

## **XI. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29