

**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 14, 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 November 16, 2004 on a timely appeal, filed July 26, 2004.

It should be noted that this hearing was originally scheduled for September 14, 2004. The claimant could not keep the appointment due to health reasons and the hearing was rescheduled for November 16, 2004. At the conclusion of the hearing on November 16, 2004, the State Hearing Officer requested additional medical information. The case was then resubmitted to the Medical Review Team (MRT) for reconsideration. The State Hearing Officer received the decision from MRT on March 14, 2005.

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

**II. PROGRAM PURPOSE:**

The Program entitled SSI-Related Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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  
Judy Schurdell, Department Hearing Representative

**April 28, 2005**

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**IV. QUESTIONS 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)  
20 CFR 416.905 and 416.920

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

**Department' Exhibits:**

Admitted November 16, 2004

Exhibit D-1) Hearing Form IG-BR-40 Hearing Appointment Notice  
Exhibit D-2) Hearing Form IG-BR-29, Hearing/Grievance Record Information  
Exhibit D-3) Denial Notice dated 07/12/04  
Exhibit D-4) Notice of MRT Decision dated 07/12/04  
Exhibit D-5) Notice of AFDC-Related Medicaid 06/03/04  
Exhibit D-6) Form ES-RT-3 Disability Evaluation  
Exhibit D-7) Form OFS-RT-2 MRT Transmittal Memo dated 06/17/04  
Exhibit D-8) Form OFS-RT-5 General Physical – Rural Acres – dated 06/14/04  
Exhibit D-9) Report – Dr. [REDACTED] DO – dated 06/28/04  
Exhibit D-10) Report – Dr. [REDACTED] – dated 06/29/04  
Exhibit D-11) Form OFS-RT-2 – Family Healthcare – dated 09/05/03  
Exhibit D-12) Office of Maternal & Child Health Screening Form dated 03/03/04  
Exhibit D-13) Report – [REDACTED] Center – dated 03/08/03  
Exhibit D-14) Report – [REDACTED] Community Hospital – dated 09/22/03 & 09/10/04  
Exhibit D-15) Social Summary dated 05/25/04  
Exhibit D-16) ES-5 Recording Log

Admitted March 14, 2005

Exhibit D-17) MRT Packet for Reconsideration dated 03/10/05

**Claimants' Exhibits:**

Admitted November 16, 2004

Exhibit C-1) Claimants' Summary  
Exhibit C-2) Claimants' Statement of Physical Ailments

Exhibit C-3) Medical Reports

**VII. FINDINGS OF FACT:**

- 1) The claimant was a recipient of AFDC-Related Medicaid. The claimant came to the office 03/09/04 and the MRT process was started for SSI-Related Medicaid as the claimant's only child would be turning eighteen in 05/04. The only way for the claimant to be eligible for Medicaid was to go through MRT. On 06/03/04 the AFDC-Related Medicaid case was closed but a case under the SSI-Related Medicaid category was opened for the claimant pending the MRT decision. The SSI-Related Medicaid case was then closed as the claimant "did not request medical".
- 2) The information was submitted to MRT on 06/17/04 and on 07/12/04 the MRT decision was received which stated the claimant was not disabled.
- 3) A denial notice was mailed to the claimant 07/13/04 stating the application dated 06/02/04 was denied. Ms. Schurdell testified the actual application was made on 03/09/04. The claimant verbally requested a hearing on 07/26/04. Since the SSI-Related Medicaid was opened and then closed for 06/04 and the closure notices were not correct, the SSI-Related Medicaid was reopened pending the hearing decision.
- 4) The claimant was 41 years of age at the time of the hearing. She completed the ninth grade and does not have a GED. She can write and reads "somewhat". She can't read long words. She has never been employed outside of the home. She has raised three children.
- 5) The claimant had a hysterectomy 08/17/04. The claimant testified her major ailments/complaints include but are not limited to yeast infections every month, pain in hands, legs, shoulders, lower back and hips. Her right kidney is too small and the left kidney is enlarged. She keeps bacterial infections and has cloudy, bloody urine. She has fibrocystic cysts in her breasts and has sphenoid sinus cyst 2 or 3 times a month compatible with mild sinusitis. She has been blind in the right eye since birth.(See Exhibit C-2)
- 6) At the time of the hearing the claimant had not applied for SSI. She had an appointment for 12/02/04.
- 7) The claimant testified her husband helps her with the housework and cooking. She has a driver's license but she has only driven three times since having a wreck in 2003. She has friends/family in the home and visits family/friends. She can lift twenty pounds but not for a long period of time. She does not do yard/garden work

- 8) The general physical completed 06/14/04 reads that the claimant is able to work at customary or like work and can perform other full-time work. Careful placement due to partial blindness. (Exhibit D-8)
- 9) The summary from [REDACTED] reads claimant was last seen 09/05/03 for generalized numbness and "gsrt disturbance". Length of time incapacity/disability to last is listed at 6 months. No employment until evaluations. (Exhibit D-11)
- 10) Statement dated 06/28/04 from Dr. [REDACTED] reads in part that the claimant is unable to work until after hysterectomy. (Exhibit D-9)
- 11) Report from Radiology Department at [REDACTED] Community Hospital dated 09/20/02 (Exhibit D-14) reads in part:

**Gallbladder Sonogram:** The gallbladder is beautifully demonstrated. There are no ? defects of the gallbladder.

**Intravenous Pyelogram:** Scout film of the abdomen is unremarkable.

**Impression:** Normal upper collecting system, but a considerable amount of residual contrast material in the urinary bladder in the postvoiding film. The possibility of this patient having a partial bladder outlet obstruction should be considered clinically. Also noted but not mentioned previously, on the postvoiding film there appears to be a small diverticulation off of the urinary bladder on the right.

- 12) Discharge Summary from [REDACTED] Hospital dated 08/20/04 (Exhibit D-17) reads in part:

**Operations:** Total abdominal hysterectomy and bilateral salpingectomy for removal of the hydrosalpinx. Both ovaries conserved.

Postoperative course was uneventful and was discharged home in satisfactory condition.

**Diagnostic Studies:** Uterus weight was 112 grams; myometrium showed fibroids, benign; endometrium disorder, proliferative phase. Both fallopian tubes were unremarkable.

- 13) Physician's Summary dated 11/16/04 from Dr. [REDACTED] (Exhibit D-17) reads in part:

Diagnosis: Chronic cystitis urinary tract infection

Prognosis: Run IPV voiding cystography test in office. Put on meds.

Length of Time Incapacity/Disability is Expected to Last: ?

Employment Limitation: ?

- 14) Report from Dr. [REDACTED] dated 11/09/04 reads in part:

Voiding Cystourethrography Impression: Essentially negative exam. No reflux demonstrated.

- 15) Report from Cranial MRI with and without contrast dated 09/02/03 reads 1) Incidental sphenoid sinus cyst compatible with mild sinusitis, 2) Otherwise normal cranial MRI with and without contrast.

- 16) Neurological report from Dr. [REDACTED] dated 10/13/03 reads in part:  
\_\_\_\_\_ is complaining from head to toes which is not consistent with any definite Neurological disease and MS has been ruled out by normal MRI of the head. I do think most if not all of the complaints are psychological so to give her the benefit of the doubt I will bring her back in 2-3 days and check the lower extremities and lower back with EMG/NCS then decide on treatment plan accordingly. (Exhibit D-17)

- 17) Report dated 10/23/03 from Dr. Othman reads in part that EMG and NCS of both the lower extremities and the lumbar paraspinals are within normal limits. (Exhibit D-17)

- 18) Radiology report dated 10/27/03 shows finding of normal lumbrosacral spine. (Exhibit D-17)

- 19) Radiology report dated 11/14/03 shows finding of normal MRI of lumbar spine. Also reads 1) 12 thoracic type segments. 2) Minimal complex scoliosis. (Exhibit D-17)

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

- 1) The State's definition of disability for Medicaid is found in WV Income Maintenance Manual Section 12.2 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 Medicaid 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 416.905.
- 3) 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 416.920.

- 4) 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.

- 5) The claimant is not employed.

- 6) 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? If not, the person is not disabled.

- 7) The medical evidence does not support the requirement that the claimant must have a severe impairment which has lasted or can be expected to last one year or result in death.

#### **IX. DECISION:**

It is the finding of the State Hearing Officer that the claimant does not meet the definition of disability. The Department is upheld in the decision to deny the claimant's application for the SSI-Related Medicaid Program. The case will be closed after proper notification.

#### **X. RIGHT OF APPEAL:**

See Attachment

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**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29