



**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

December 30, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 26, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the SSI-Related Medicaid Program.

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 SSI-Related Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: 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))

The information which was submitted at your hearing revealed that in the opinion of the State Hearing Officer, you do not meet the above stated definition.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny your application for the SSI-Related Medicaid Program.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Susan Godby, DHHR

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

_____,

Claimant,

v.

Action Number: 05-BOR-5569

**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 July 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 convened on July 26, 2005 on a timely appeal, filed April 28, 2005.

It should be noted here that the claimant's benefits have been denied.

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.

The SSI Related Medicaid Program 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
Susan Godby, 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 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
Section 12.04, 20 CFR Part 404, Subpart P. App. 1 & 2
20 CFR 404.1594 (b)(1)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Form IG-BR-29 Hearing/Grievance Record Information
- D-2 Notification Letter dated 04/21/05
- D-3 Copy of MRT decision
- D-4 Copy of MRT Packet
- D-5 Copy of West Virginia Income Maintenance Manual Sections 12.2, 16.4 & 16.9
- D-6 Copy of Department's Summary

VII. FINDINGS OF FACT:

- 1) The claimant applied for SSI-Related Medicaid based on a disability 11/08/04. The medical packet was submitted to the Medical Review Team (MRT) on 12/16/04. A general physical was requested by MRT on 03/14/05. A decision was returned on 04/20/05 stating that the claimant's disability was not expected to last but for six months.
- 2) The claimant was sent a denial notice on 04/21/05. (D-3) A hearing was requested on 04/28/05.
- 3) The case was sent to MRT for reconsideration on 05/05/05. After reviewing additional medical, the case was denied by MRT.
- 4) 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.

5) 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.

6) 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.

7) 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.

8) The claimant is not employed.

9) 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.

10) The statement from Dr. [REDACTED] dated 10/27/04 reads that "Mr. _____ is a 43 year old right handed male who presents for evaluation of his right shoulder. ASSESSMENT: (1) Right shoulder pain."

11) The general physical completed 03/14/05 reads the major diagnosis is right arm/shoulder pain. Duration of inability to work full time: six months.

12) The psychiatric evaluation by Dr. [REDACTED] dated 01/25/05 reads in part:

Patient denies any history of suicide attempts or psychiatric visits, psychotropic medication trials, or psychiatric inpatient hospitalizations.

The patient denies use of drugs. He smokes two packs of cigarettes a day. He reports drinking three beers a day. During today's visit he smells of alcohol. He denies any history of DUI.

The patient is malodorous of alcohol. He is friendly and not irritable. He is not depressed. His mood is euthymic. He is alert and oriented. His insight and judgment is fair. His mood is euthymic. He denies suicidal or homicidal thoughts. He denies psychotic symptoms.

Diagnosis AXIS I: Alcohol Abuse

The claimant is not incapacitated from a mental health status except that he drinks alcohol.

- 13) The Physician's Summary dated 11/08/04 from Dr. [REDACTED] reads last patient contact 10/21/04, diagnosis: right shoulder/arm pain, length of time disability expected to last – 4-6 months.

VIII. CONCLUSIONS OF LAW:

- 1) The medical evidence listed in Part VII., #10, #11, #12 & #13 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.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of December, 2005.

**Margaret M. Mann
State Hearing Officer**