



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 1736  
Romney, WV 26757

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

November 21, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 15, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for Medicaid based on disability not determined.

In arriving at a decision, the State Hearings 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 Medicaid Program (SSI-Related) is based on current policy and regulations. The definition of disability for Medicaid purposes is the same as the definitions used by SSA to determine disability for SSI or RSDI base on disability. [WV Income Maintenance Manual Section 12.2(A)]

The information, which was submitted at your hearing, revealed that you did meet the SSA definition of disability as of April 2005 and therefore met the criteria necessary to establish a disability for purposes of the Medicaid Program.

It is the decision of the State Hearings Officer to **reverse** the action of the Department in denying your application for SSI-Related Medicaid.

Sincerely,

Sharon K. Yoho  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Melissa Link, ESW, DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 05-BOR-6757**

**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 November 15, 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 15, 2005 on a timely appeal, filed September 30, 2005.

**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 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's Witnesses:

\_\_\_\_\_, claimant  
\_\_\_\_\_, claimant's sister  
\_\_\_\_\_, claimant's friend

Department's Witnesses:

Melissa Link, ESW, DHHR

Presiding at the Hearing was Sharon K. Yoho, 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 agency was correct in their action to deny the Claimant's application for SSI-Related Medicaid based on disability not being met.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 12.2(A)  
20 CFR ' 404.1505 - 404.1545, Code of Federal Regulations

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

**Department's Exhibits:**

- D-1 Medical Review Team (MRT) Transmittal Memorandum dated 8/6/05
- D-2 Social Summary Outline
- D-3 General Physical (ES-RT-5) dated June 23, 2005
- D-4 Diagnostic Radiology Report of left hip dated May 23, 2005
- D-5 Disability/Incapacity Evaluation (ES-RT-3) dated August 11, 2005
- D-6 Notice of denial dated September 19, 2005
- D-7 WV Income Maintenance Manual §12.2

**Claimant's Exhibits:**

- C-1 SSA letter verifying RSDI benefits retroactive to April 2005
- C-2 Diagnostic Radiology Report of left knee dated May 23, 2005
- C-3 Letter from Dr. [REDACTED] dated November 15, 2005

**VII. FINDINGS OF FACT:**

- 1) The Claimant completed an application for SSI-Related Medicaid on June 2, 2005.
- 2) The Department submitted a Physician's General Physical Summary, Social Summary and Radiology Report to the Medical Review Team for disability determination on August 6, 2005.
- 3) MRT reviewed the Claimant's medical documentation and determined on August 11, 2005 that the Claimant did not meet the definition of disabled. The ES-RT-3, (D-2) Disability / Incapacity Evaluation, includes the following statement in Section III, E:

"DFA-RT-5 of 6/23/05 states, "Yes" is able to perform other full time work."

- 4) The Physician's Summary, (Exhibit #D-3) did indicate that the claimant could work fulltime.
- 5) The Department sent a notice of denial to the claimant on September 19, 2005.
- 6) The Social Security Administration determined Ms. \_\_\_\_\_ to be disabled on September 1, 2005 with disability in affect retroactive to April 1, 2005.
- 7) Ms. \_\_\_\_\_ is diagnosed with significant osteoarthritis of the left hip and mild medial compartment osteoarthritis of the left knee. She is also diagnosed with hypothyroidism, dyslipidemia and impaired glucose tolerance. She is unable to ambulate for long periods of time and experiences falls due to her left hip giving out.
- 8) West Virginia Income Maintenance Manual ' 12.2 (A):

The definition of disability for Medicaid purposes is the same as the definitions used by SSA in determining eligibility for SSI or RSDI based on disability.  
An individual who is age 18 or over is considered to be disabled if he is unable to engage in any substantial gainful activity due to 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.
- 9) The Federal definition of disability is found in 20 CFR ' 404.1505:

There is a five-step sequence of questions to be addressed when evaluating claims of disability, these are set forth in 20 CFR ' 404.1520.

  - (1) Is the person performing substantial gainful activity as defined in 20 CFR 404.1510?
  - (2) Does a severe impairment exist which is expected to last one year or result in death?
  - (3) If the person has a severe impairment, is the impairment a listed impairment under 20 CFR Part 404, Sub Part P, App. 1 or its medical equivalent?
  - (4) What is the person's Residual Functional Capacity (20 CFR 404.1545) and can that person still perform his or her former work?
  - (5) Can the person do any other work based upon the combined vocational factors of residual functional capacity, age, education, and past work experience? (20 CFR ' 404.1520f)
- 10) 20 CFR ' 404.1508, 404.1509, & 404.1520 Code of Federal regulations:

Unless your impairment is expected to result in death, it must have lasted or must be expected to last for a continuous period of at least 12 months. We call this duration requirement. (404.1509)  
Your impairments(s) must be severe and meet the duration requirement before we can find you disabled. If you do not have any impairments or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education and work experience. (404.1520)

- 11) 20 CFR ' 404.1508, 404.1509, & 404.1520 Code of Federal regulations:  
Impairment must result from anatomical, physiological or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms and laboratory findings, not only by your statement of symptoms. (404.1508)

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

- 1) Policy states that disability is established if the client is unable to engage in any substantial gainful activity and the condition is to last not less than twelve (12) months. The Social Security Administration made a determination that the claimant did meet this definition of disability as of April 2005.
- 2) The Department did not obtain adequate medical information necessary for the Medical Review team to determine that the claimant was disabled.

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

The testimony and evidence presented at this hearing confirms that this claimant met the Social Security Administration's definition of disability as of April 2005. It is the ruling of this Hearing Officer to **reverse** the action of the Department in denying the application for SSI-Related Medicaid benefits. Benefits should be backdated to the June 2, 2005 date of application to cover any medical expenses in the months prior to the date the claimant began receiving RSDI benefits requiring her to enter a spenddown period of consideration.

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

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 21st Day of November 2005.**

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**Sharon K. Yoho**  
**State Hearing Officer**