



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 9, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 9, 2007. Your hearing request was based on the Department of Health and Human Resources' action to terminate your benefits under SSI-Related Medicaid Program because you failed to appear for a July 18, 2006 medical appointment.

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: FAILURE TO KEEP MEDICAL APPOINTMENTS – Only cases involving the client's deliberate failure to provide necessary information are subject to adverse action. The client must be informed of the possible consequence at the time of appointment notification. The Worker must determine whether or not the client has good cause for failing to keep a medical appointment. (WV Income Maintenance Manual Section 12.8.D)

The information which was submitted at your hearing revealed that the Department did not take the necessary steps to determine whether you had good cause for failing to keep the July 2006 appointment, and failed to notify you of the adverse action imposed as a result.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to terminate your benefits under the SSI-Related Medicaid Program.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Heather Walker, [REDACTED] DHHR
Sylvia Proffitt, [REDACTED] DHHR

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

_____,

Claimant,

v.

Action Number: 06-BOR-3453

**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 January 9, 2007 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 January 9, 2007 on a timely appeal, filed November 28, 2006.

It should be noted here that the claimant's benefits have been continued pending the outcome of this hearing.

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
_____, Legal Aid Paralegal
_____, brother and witness
Heather Walker, Department Representative

Presiding at the hearing was Cheryl McKinney, 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 Department was correct in their decision to terminate Claimant's SSI-Related Medicaid benefits due to his failure to keep a July 2006 medical appointment.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 12.8.D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification letter dated November 17, 2006
- D-2 Copy of DFA-FH-1 dated November 28, 2006
- D-3 Copy of Fax dated December 14, 2006 (3 pages)
- D-4 Copy of Medical Eligibility Verification dated December 14, 2006
- D-5 Copy of forms completed May 23, 2006 (14 pages)
- D-6 Copy of MRT log
- D-7 Copy of Appointment letter dated April 4, 2006 and fax information (7 pages)
- D-8 Copy of CAF dated November 28, 2006 (12 pages)
- D-9 Copy of MRT log
- D-10 Copy of Rapids CMCC screens (8 pages)
- D-11 Copy of WV Income Maintenance Manual Section 12.8

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On May 15, 2006 the Department determined that the Claimant was overdue for a Medical re-evaluation with the Medical Review Team and began the process of gathering needed documentation. The Department scheduled the Claimant for an appointment in the DHHR office on May 23, 2006 to complete the necessary forms. The Claimant kept this appointment.
- 2) On June 23, 2006 the Department made a recording in RAPIDS (D-10) indicating they scheduled a medical appointment for the Claimant for July 18, 2006 and sent the notification letters out on this date as well. Department's exhibit (D-7) shows a copy of this notification letter addressed to the Claimant, however, the date at the top of the letter is entered as April 24, 2006.
- 3) The Department recorded in RAPIDS (D-10) that on November 22, 2006 they became aware that the Claimant did not keep the July 18, 2006 medical appointment. They recorded also that the Claimant's medical was currently closed due to the fact that no review had been completed in November 2006. No notification was sent to inform the Claimant of the missed appointment. The Department did send a notification letter dated November 17, 2006 (D-1) informing the Claimant that his SSI Related Medicaid was being closed because he did not complete an eligibility review. The letter also stated that if the Claimant were to complete a review, his benefits may be reopened, but they may be delayed. The Claimant contacted the Department on November 28, 2006 indicating he was confused because he had received two (2) appointment notices for November 2006. The Department indicated they informed the Claimant to keep the November 28, 2006 appointment.
- 4) The Claimant appeared for the November 28, 2006 appointment with the Department and they entered a recording in RAPIDS (D-10) indicating the Claimant was reapplying for medical assistance. The recording also indicated the Claimant had missed the July 2006 medical appointment and therefore his medical would end November 2006. The recording also stated that because the appointment was missed in July, MRT was denied and is now an application. The Claimant completed a DFA-FH-1 form this date (D-2) indicating he was not aware that he had the medical appointment in July 2006.
- 5) The Claimant testified he never received notification instructing him to go to the [REDACTED] on July 18, 2006 for a medical appointment. He stated he did receive a letter from the Department notifying him of a January 16, 2007 medical appointment. He testified he has never before missed any appointments scheduled by the Department and would not have missed the one in July 2006 if he had been aware of it.
- 6) The Claimant's brother testified that he lives in the same house as the Claimant, and assists his brother with his business matters. He stated he always gets the mail and keeps up with the Claimant's appointments. He stated that he does not remember receiving any notification for the July 18, 2006 medical appointment for his brother.

- 7) WV Income Maintenance Manual Section 12.8.D states in pertinent part:

D. FAILURE TO KEEP MEDICAL APPOINTMENTS

Penalties for failure to keep medical appointments vary, depending on the point at which the non-compliance occurs. If the client has good cause for not keeping the appointment, another one is made.

Only cases involving the client's deliberate failure to provide necessary information are subject to adverse action. The client must be informed of the possible consequence at the time of appointment notification. The Worker must determine whether or not the client has good cause for failing to keep a medical appointment.

VIII. CONCLUSIONS OF LAW:

- 1) Evidence clearly shows the Department did not take the necessary steps to determine whether the Claimant had good cause for failing to appear for the July 18, 2006 medical appointment. The Department was obligated to contact the Claimant to determine the reason for his failure to keep the appointment. According to policy it is only in cases of the client's deliberate failure to provide necessary information when adverse action is applied. Evidence presented clearly shows the claimant was simply unaware of the scheduled appointment.
- 2) Proper notification was not issued to the Claimant.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department did not meet the obligation to establish whether the Claimant had good cause for failing to keep the medical appointment in July 2006, and is hereby **reversed** in their decision to terminate the Claimant's medical eligibility due to failure to keep a medical appointment.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of March 2007.

**Cheryl McKinney
State Hearing Officer**