



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 18, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 14, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits under the Medicaid Work Incentive (M-WIN) 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 M-WIN Program is 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 12 months. All Assistance Groups are redetermined for disability and financial eligibility in the sixth month of the eligibility period. The premium amount is redetermined and adjusted, if applicable. [West Virginia Income Maintenance Manual Sections 23.2B and 23.3M]

Information submitted at the hearing revealed that you did not complete an M-WIN Program redetermination in July 2007, therefore your continued eligibility could not be evaluated.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to terminate your M-WIN benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
Rita Hayner, ESS

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v.

Action Number- 07-BOR- 1854

West Virginia Department of Health and Human Resources,
Respondent.

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on September 18, 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 September 14, 2007 on a timely appeal filed on August 2, 2007.

It should be noted that the Claimant is receiving continued benefits pending a hearing decision.

II. PROGRAM PURPOSE:

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

The Medicaid Work Incentive (M-WIN) coverage group was established by West Virginia Senate Bill 1388 to assist individuals with disabilities in becoming independent of public assistance by enabling them to enter the workforce without losing essential medical care. The coverage group was effective May 1, 2004.

III. PARTICIPANTS:

_____, Claimant
Rita Hayner, Economic Services Supervisor, DHHR

Presiding at the hearing was Pamela Hinzman, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department has correctly proposed to terminate the Claimant's M-WIN benefits due to failure to complete a re-determination.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 23.2B, 23.4B and 23.3M

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

D-1 Notice of Decision dated July 18, 2007

VII. FINDINGS OF FACT:

- 1) The Claimant, a recipient of M-WIN benefits, was scheduled for a semi-annual review to determine her continued financial and medical eligibility for the program. The re-determination was due in July 2007.
- 2) The Claimant failed to complete the re-determination and the Department proposed termination of her benefits as specified in a Notice of Decision dated July 18, 2007 (D-1). The letter states, in part:

Your Medicaid Work Incentive Program (M-WIN) coverage will stop on 08/01/07. The reason for this is failure to complete a re-determination of eligibility by keeping an appointment scheduled for you for an evaluation.

- 3) The Claimant is no longer working and completed an SSI-Related Medicaid application in August 2007. That application is currently pending with the Department.
- 4) The Claimant testified that she was hospitalized for portions of June and July 2007 and was unable to attend her review appointment for the M-WIN Program. She testified that she needs a means of payment for her medications.
- 5) West Virginia Income Maintenance Manual Section 23.2B states that, for the M-WIN Program, an individual must be disabled as defined by the Social Security Administration. The disability may be determined by Social Security or by the State Medical Review Team (MRT). Disability, for this coverage group, is defined as a medically determinable physical or mental condition which has lasted or is expected to last a year or more or is expected to result in death.
- 6) West Virginia Income Maintenance Manual Section 23.4B states:

At the time of the 6-month re-determination, the Worker must insure that the disability requirement continues to be met for the new period of eligibility. The individual must be a current RSDI recipient or there must be a valid MRT decision which extends into the new eligibility period. MRT reevaluations will be completed at the time specified by MRT.

- 7) West Virginia Income Maintenance Manual Section 23.3M states that M-WIN Assistance Groups are redetermined for disability and financial eligibility in the sixth month of the eligibility period. The premium amount is redetermined and adjusted, if applicable.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires that M-WIN cases be reviewed semi-annually. The Claimant's M-WIN case was due for financial and medical re-determination in July 2007.
- 2) The Claimant failed to keep her re-determination appointment, but reported during the hearing that she was hospitalized for portions of June and July 2007. However, as the Claimant's review was not completed, the Department was unable to determine her continued eligibility for M-WIN benefits.
- 3) The Department acted correctly in proposing termination of the Claimant's M-WIN benefits.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, the determination of the Agency as set forth in the July 18, 2007 notification is **upheld**.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 18th Day of August, 2007.

Pamela Hinzman
State Hearing Examiner