



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704**

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

November 8, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 6, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to close your Medicaid Work Incentive (M-WIN) Program case.

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 Work Incentive Program is based on current policy and regulations. One of these regulations specifies that the M-WIN applicant/recipient must be employed and earn a monthly wage not less than the federal minimum wage multiplied by 40. [WV Income Maintenance Manual Section 23.4]

The information which was submitted at your hearing revealed that you were earning \$161.21 but the federal minimum wage of \$5.85 multiplied by 40 equals \$234. In addition, the MRT determined that your medical condition had improved.

It is the decision of the State Hearings Officer to uphold the action of the Department to close your Medicaid Work Incentive (M-WIN) Program case.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Fran Bellamy, Dept. Hearing Rep.

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-2217**

**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 6, 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 November 6, 2007 on a timely appeal, filed September 27, 2007.

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

**II. PROGRAM PURPOSE:**

The Program entitled Medicaid Work Incentive Program is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Medicaid Work Incentive (M-WIN) coverage group was established by West Virginia Senate Bill 388 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 is effective May 1, 2004.

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
Fran Bellamy, ESW, DHHR

Presiding at the Hearing was Thomas M. Smith, 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 the proposal to close the claimant's Medicaid Work Incentive (M-WIN) Program case.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 12.2, 23.1, 23.2, 23.4, 23.12.

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

**Department's Exhibits:**

- D-1 Copy of income calculations.
- D-2 Copy of notification letter dated 9-17-07 (2 pages).
- D-3 Copy of notification letter dated 9-27-07 and pay stubs (2 pages).
- D-4 Copy of pre-hearing conference letter dated 10-2-07.
- D-5 Copy of reinstatement of benefits letter dated 10-2-07.
- D-6 Copy of letter canceling pre-hearing conference dated 10-3-07.
- D-7 Copy of hearing request dated 9-29-07.
- D-8 Copy of WV Income Maintenance Manual Sections 23.4 and 23.12 (5 pages).
- D-9 Copy of MRT packet (42 pages).

**VII. FINDINGS OF FACT:**

- 1) The claimant was an active recipient of the Medicaid Work Incentive Program (M-WIN) when a reevaluation packet was submitted to the Medical Review Team (MRT) on 1-23-07 (Exhibit #D-9).
- 2) The MRT reviewed the claimant's medical documentation and determined on 2-15-07 that the claimant was mentally disabled for the Medicaid Work Incentive-Medically-Improved Program.
- 3) The claimant was working for \_\_\_\_\_s Chapel Church and was earning \$250 per month for most months and met the requirement that she be working 40 hours per month at minimum wage (\$5.85) to remain eligible for the M-WIN Medicaid Program.
- 4) The Department determined that the claimant's employment would end as of 9-30-07 as it was seasonal and notification of closure was sent on 9-17-07 (Exhibit #D-2) notifying the claimant that the Medicaid Work Incentive Program case would be closed effective 9-30-07 as she was not working the required 40 hours per month at minimum wage.
- 5) Testimony from the Department indicated that a requirement of the Medicaid Medically Improved Program is that the individual must work the equivalent of 40 hours per

month at minimum wage, that the claimant worked during warm weather mowing for a church, that a phone message was received from the claimant about being employed at [REDACTED] Services and a letter was sent on 9-27-07 (Exhibit #D-3) explaining the requirements of the M-WIN Program and informing the claimant to provide verification of earnings, that three (3) check stubs were received on 10-2-07 but showed amounts of \$50.94, \$50.94, and \$10.61 for an average of \$37.49 per week, that the work for [REDACTED] Services averaged to only \$161.21 per month and the claimant needed to earn \$234 per month to meet the requirement of working 40 hours per month at minimum wage, that the claimant requested a hearing as she objected to the determination by the MRT that she was medically improved.

- 6) The claimant testified that she does not know how she could be determined as medically improved, that she has social anxiety and obsessive compulsive disorder (OCD), that the medication (Zoloft) helps the OCD but not the social anxiety disorder, that she cannot function with the public, that the Social Security Administration found her disabled for SSI but her husband received too much money for her to get it, and that she needs the medical card for medications.
- 7) West Virginia Income Maintenance Manual Section 23.2 states, in part:

#### B. DISABILITY

The 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. The disability definition for individuals under age 18 is found in Section 12.2,A,2.

- 8) West Virginia Income Maintenance Manual Section 23.4 states, in part:

#### B. REDTERMINATION OF DISABILITY

At the time of the 6-month redetermination, 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.....

NOTE: When the information is submitted to MRT for reevaluation of disability, an evaluation for Medically- Improved eligibility must be requested automatically at the same time. If the individual is determined no longer disabled, he is evaluated immediately as Medically- Improved.

The Department cannot determine that an individual who participates in the program is no longer disabled solely due to his employment or earned income, including self-employment.....

#### D. IMPROVEMENT IN MEDICAL CONDITION – MEDICALLY-IMPROVED GROUP

NOTE: Only individuals who originally received benefits under the M-WIN coverage group may receive this coverage as medically-improved. The medical determination is made by MRT.

An M-WIN recipient who experiences an improvement in his medical condition remains eligible for coverage if he:

- Continues to have a severe medically determinable impairment, as determined by MRT and permitted by federal law: and
- Is employed and earns a monthly wage not less than the federal minimum hourly wage multiplied by 40: and
- Has income and/or assets that do not exceed program limits: and
- Is at least age 16, but under age 65: and
- Meets all other program eligibility requirements.

9) WV Income Maintenance Manual Section 23.12 B states, in part:

“When the information is submitted to the MRT for reevaluation of disability, an evaluation for Medically-Improved eligibility must be requested automatically at the same time. If the individual is determined no longer disabled, eligibility as Medically-Improved is immediately evaluated.

Eligibility for this group of individuals is determined by MRT. These are individuals who no longer meet the RSDI or SSI-Related disability definition due to a medical improvement brought about by treatments such as therapy or medication. Examples of potentially eligible individuals are those with severe mental illness, HIV/AIDS and epilepsy.”

10) The area of dispute involves the claimant’s disagreement with the determination by the MRT that she was medically improved. The MRT determined on 2-15-07 that the claimant was mentally disabled for the M-WIN Program. The General Physical Report dated 11-9-06 in Exhibit #D-9 states that the claimant cannot perform full time customary work but can perform other full time work in a non-stressful position. A report from [REDACTED], Licensed Psychologist, dated 12-27-06 gives diagnosis as Social Phobia but states that prognosis is good as psychotropic medication has already improved functioning somewhat and states that the claimant could work in an environment that did not involve interaction with the public. The MRT based its decision at least partially on these two (2) reports which show her condition as improved. The State Hearing Officer finds that the MRT was correct to determine that the claimant’s condition has improved. The claimant did not dispute the fact that she was not working the equivalent of 40 hours per week at minimum wage but that was the reason the Department proposed the action to close the claimant’s case and the State Hearing Officer finds that the Department was also correct in making that determination.

**VIII. CONCLUSIONS OF LAW:**

- 1) WV Income Maintenance Manual Section 23.12 states that when information is submitted to the MRT for reevaluation of disability, an evaluation of disability for the Medically Improved eligibility must be requested. The evidence submitted at the hearing revealed that after the claimant was determined not to meet the definition of disability, she was determined eligible for the Medically Improved (M-WIN) Program.
- 2) WV Income Maintenance Manual Section 23.4 states that an M-WIN recipient remains eligible if, among other things, he/she is employed and earns a monthly wage not less than the federal minimum hourly wage multiplied by 40 (\$234). The claimant was earning only \$161.21 per month and no longer met the criteria for the M-WIN Program.

**IX. DECISION:**

It is the ruling of this Hearing Officer to uphold the proposal of the Department to close the Medicaid Work Incentive (M-WIN) Program case.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 8th Day of November, 2007.**

---

**Thomas M. Smith**  
**State Hearing Officer**