



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

January 2, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 18, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for Medicaid coverage due to the State's definition of disability was not met.

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. 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 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 you do not meet the criteria necessary to establish disability for purposes of the Medicaid Program.

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

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Sue Radko, DHHR

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

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

**v.**

**Action Number: 07-BOR-2471**

**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 December 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 December 18, 2007 on a timely appeal, filed November 12, 2007.

**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  
Sue Radko, Family Support Supervisor, 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 SSI-Related Medicaid application due to disability not being met.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 12.2(A), 12.11, 16.9, CFR ' 404.1505 - 404.1545 – Code of Federal Regulations

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

##### **Department's Exhibits:**

- D-1 Disability/Incapacity Evaluation dated September 17, 2007 regarding disability
- D-2 Memo to Medical Review Team (MRT) dated September 13, 2007
- D-3 General Physical report dated August 29, 2007
- D-4 Medical request for General Physical dated August 16, 2007
- D-5 ER Discharge Instructions dated April 22, 2007
- D-6 MRT request for General Physical dated July 18, 2007
- D-7 Memo to MRT dated July 16, 2007
- D-8 Social Summary completed June 11, 2007
- D-9 [REDACTED] records
- D-10 [REDACTED] records
- D-11 Appointment record from [REDACTED] dated April 30, 2007
- D-12 WV Income Maintenance Manual §12.2
- D-13 WV Income Maintenance Manual §12.11
- D-14 Notice of denial dated October 15, 2007

#### **VII. FINDINGS OF FACT:**

- 1) The claimant fell from a horse in April 2007. The fall resulted in a broken collarbone and temporary absence from her employment. She incurred Doctor and Hospital bills for the treatment of this injury.
- 2) The claimant applied for Medicaid on June 11, 2007 for the purposes of obtaining help to pay the accumulated bills.
- 3) The Department obtained medical records from [REDACTED] on July 12, 2007 and submitted these documents to the Medical Review Team (MRT) on July 16, 2007 for a disability determination. The MRT requested that a General Physical be performed and the results sent to them.

- 4) The Department arranged for a General Physical to be performed on the claimant on August 29, 2007. The report from this General Physical was sent to MRT on September 13, 2007.
- 5) The General Physical report, (Exhibit D-3) states that the applicant is able to work full-time at customary occupation or like work. It further states that the applicant is able to perform other full time work, but should avoid heavy lifting. At the time of the General Physical, the claimant had returned to her employment as a truck driver.
- 6) The MRT reviewed the General Physical report along with the Hospital records and made a determination that the claimant is not disabled. MRT issued the results of their decision to the DHHR staff. The MRT evaluation results state that the client does not have a medically determinable impairment or combination of impairments, which significantly limits ability to perform basic work activity. Their report reiterates the General Physical statement, "YES, is able to work full time."
- 7) The Department issued a denial notice on October 15, 2007.
- 8) West Virginia Income Maintenance Manual §12.2 (A) & §12.11:  
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. Policy §12.11 states: SSI-Related Medicaid and M-WIN. If the applicant is found not to be disabled or blind, the application is denied.
- 9) West Virginia Income Maintenance Manual § 16.9:  
Individuals who meet the SSI definition of aged, blind, or disabled are eligible for Medicaid.
- 10) 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)

- 11) 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)
  
- 12) 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)  
  
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)

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

- 1) Policy §12.2 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. It further provides that the definition of disability used by the Department is the same as those used by the Social Security Administration for SSI disability. The claimant admitted that her disability did not last for an extended period of 12 months. Her issue at this hearing was not that her disability condition existed for 12 months, but rather that she has no means to pay the accumulated bills that resulted from the treatment received for her accident.
  
- 2) Policy §16.9 provides that individuals who meet the SSI definition of aged, blind, or disabled are eligible for Medicaid. Policy §12.11 provides that the application is to be denied if the applicant is found not to be disabled. This claimant clearly did not meet the definition of disability due to the limited months of her incapacity to work.

**IX. DECISION:**

It is the ruling of this Hearing Officer to **uphold** the action of the Department to deny your SSI-Related Medicaid application.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2nd Day of January 2008.**

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**Sharon K. Yoho  
State Hearing Officer**