



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

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

November 30, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 16, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your Women with Breast or Cervical Cancer Medicaid Coverage.

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 Breast and Cervical Cancer program is based on current policy and regulations. These regulations provide that women under the age of 65, regardless of household income, are determined eligible for BCCSP Medicaid if they are diagnosed with a breast or cervical cancer or certain pre-cancerous conditions. This coverage ends when the individual reaches the age of 65, becomes eligible for Medicaid under another Mandatory Categorically Needy coverage group, or when the cancer treatment ends.

The information which was submitted at your hearing revealed that the Department was informed that your Breast and Cervical Coverage had subsided; therefore the decision to terminate your Breast or Cervical Cancer Medicaid Coverage was correct.

It is the decision of the State Hearings Officer to Uphold the action of the Department to terminate your Breast or Cervical Cancer Medicaid Coverage.

Sincerely,

Eric L. Phillips  
State Hearings Officer  
Member, State Board of Review

cc: Board of Review  
Ann Hubbard, ESS

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

-----,

**Claimant,**

**v.**

**Action Number: 09-BOR-2103**

**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 30, 2009 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 16, 2009 on a timely appeal, filed September 30, 2009.

**II. PROGRAM PURPOSE:**

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

**III. PARTICIPANTS:**

-----, Claimant

-----, Claimant's mother

Ann Hubbard, Economic Service Supervisor

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to terminate the Claimants coverage and benefits under the Women with Breast or Cervical Cancer Medicaid program.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 16.7

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Computer printout showing case comments dated August 31, 2009
- D-3 Denial Notice dated August 31, 2009
- D-4 West Virginia Income Maintenance Manual Chapter 16.7

**VII. FINDINGS OF FACT:**

- 1) The Claimant was a current recipient of the Women with Breast or Cervical Cancer (BCC) Coverage Medicaid. The Bureau for Children and Families received notice from the Case Manager from Office of Maternal, Child and Family Health documenting that the Claimants treatments under the program were completed effective August 2009. The Department, which determines financial eligibility for the program, removed the Claimant from the program and terminated her coverage effective September 30, 2009.
- 2) On August 31, 2009, the Department issued Exhibit D-4, Denial Notice informing the Claimant of the termination of her Breast or Cervical Cancer coverage. This notice documents in pertinent part:

Action: Your Breast and Cervical Cancer Medicaid Benefits will stop. Your last benefit will be received in 09/09.

Reason: The agency has been notified that your treatment for breast or cervical cancer has been completed; therefore you are not [sic] longer eligible for that type of Medicaid.

- 3) The Claimant and her mother testified to the fact that their family has a history of cervical cancer. They purported that the Claimant was scheduled to have another surgery in the near future and that her treatment should not have been completed.
- 4) West Virginia Income Maintenance Manual Chapter 16.7 states in pertinent part:

A woman is eligible for BCCSP Medicaid if she is diagnosed with a breast or cervical cancer or certain pre-cancerous conditions, regardless of income. She must also be receiving active treatment for her diagnosis and currently enrolled

in the Breast and Cervical Cancer Screening Program through a screening provider to be eligible for this type of Medicaid coverage.

Medicaid eligibility begins up to three months prior to the month of application, providing she would have met the eligibility criteria, and concludes when the cancer treatment ends or when she is no longer eligible. For example, she attains age 65 or obtains creditable insurance.

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

- 1) The Claimant was an active recipient of Women with Breast or Cervical Cancer (BCC) Medicaid Coverage and undergoing the necessary treatments under the program guidelines.
- 2) The Bureau for Children and Families determines all financial eligibility for Medicaid programs. The Bureau for Children and Families received notice from the Case Manager from the Office of Maternal, Child and Family Health that the Claimant had completed her treatments under the program guidelines. Per policy, an individual's coverage under the Women with Breast or Cervical Cancer Coverage program subsides when her treatment ends or when she is no longer eligible; therefore the Department was correct in its decision to terminate the Claimant's Women with Breast or Cervical Cancer Medicaid.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the Department's decision to terminate the Claimant's coverage under the Woman with Breast or Cervical Cancer Medicaid program.

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

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of November 2009.**

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**Eric L. Phillips**  
**State Hearing Officer**