



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

November 24, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 10, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your AFDC-Related Medicaid eligibility.

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 AFDC-Related Medicaid Program is based on current policy and regulations. Some of these regulations state that in order to be eligible for AFDC-Related Medicaid, there must be a dependent child in the household who is deprived of parental support and care. The living arrangements of the child determine the broad category of deprivation applicable to the child. When a child lives with both parents, the deprivation factor must be incapacity of either parent or unemployment of the parent who is the principal wage earner. (WV Income Maintenance Manual Section 15.2.C).

The information submitted at the hearing reveals that there you were living with your child's father at the time of the Department's action. As a result, you no longer have a deprivation factor for the AFDC-Related Medicaid Program. Your child's father is working more than one hundred (100) hours per month, and no evidence was submitted to support that either parent is incapacitated.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your AFDC-Related Medicaid benefits.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-2057

**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 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 10, 2010 on a timely appeal filed August 24, 2010.

II. PROGRAM PURPOSE:

The Medicaid categorically related to Aid to Families with Dependent Children Program is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

-----, Claimant, representing herself
-----, Claimant's witness

Tera Pendleton, Income Maintenance Worker, representing Department
-----, Department's witness
-----, Department's witness

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in denying the Claimant's AFDC-Related Medicaid eligibility because both parents were in the household and they have no deprivation factor.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 15.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from RAPIDS computer system
- D-2 RAPIDS computer screens showing employment information
- D-3 Notification letter dated August 5, 2010
- D-4 Unsigned written statement dated July 22, 2010
- D-5 Address verification from Postal Service
- D-6 Claimant Profile Data from Unemployment Compensation
- D-7 Vehicle Registration information from Department of Motor Vehicles

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On August 5, 2010, the Department sent the Claimant a notification letter (D-3) informing her that her AFDC-Related Medicaid was being denied. The notice included the following pertinent information:

ACTION: Your 7/27/10 application for AFDC Related Medicaid has been DENIED.

REASON: The primary wage earner (PWE) is working 100 hours or more per month. The PWE is the person who had earned the most money in the 24 months before you applied for Medicaid.

The following individuals are ineligible.

- 2) The issue for this hearing involves household composition, and whether or not the evidence supports that -----, the father of the Claimant's child, lives in her household. The parties agree that if ----- is included in the AFDC-Related Medicaid eligibility determination, the Claimant would not be eligible for AFDC-Related Medicaid; therefore, this hearing will not address the number of hours worked, income or other factors of eligibility.
- 3) -----, a Front End Fraud Unit Investigator for the Department, testified that she received an anonymous complaint which prompted her to conduct an investigation to determine if ----- lived in the same household as the Claimant.
- 4) -----testified that she interviewed (D-4) -----, who is the Claimant's uncle and next door neighbor, on July 22, 2010 at his residence. She testified that ----- told her that he had lived next door to the Claimant since January 2010, and that his niece (Claimant), and ----- lived next door to him, and that they had lived there since January 2010. She testified that ----- chose not to sign the statement after looking next door and seeing someone from the Claimant's home step outside during their conversation.
- 5) -----, a Front End Fraud Unit Investigator for the Department, testified that she witnessed the conversation between -----and ----- . She corroborated -----testimony in this regard.
- 6) ----- testified that he remembers the conversation with -----, and stated that he told her that ----- does not live with the Claimant, and that he lives with his mother at another address of which he does not know. He stated that -----approached him on July 22, 2010 and told him she was trying to verify addresses for people in the area. He added that ----- does get his mail at the Claimant's address. ----- testified that ----- does come over to the Claimant's home in the evenings and does buy diapers for the child. He stated that the information listed on the written statement (D-4) purportedly given by him was a bunch of lies.
- 7) -----stated that she also verified with the [REDACTED] West Virginia Postal Service (D-5) on July 22, 2010 that both ----- and the Claimant utilize the same mailing address. She also stated that -----'s name is listed on the mailbox in front of the Claimant's house.
- 8) The Department presented evidence (D-6) to show that ----- received his Unemployment Compensation benefits at the Claimant's address during the month of February 2010.
- 9) Additionally, evidence (D-7) provided shows that ----- has three vehicles licensed with the Department of Motor Vehicles in West Virginia, all of which show he utilizes the same mailing address as the Claimant. The most recent vehicle, listed as a fabricated home, shows the original title date listed as January 14, 2010.
- 10) The Claimant testified that ----- does not live with her. She stated that he does come to see their three (3) year old child almost daily. She added that he will stop by in the evenings to see her, and sometimes on the weekend. She stated that he does not stop by every weekend. She stated that he will take the child to his mother's home sometimes on the weekends. She stated that her bills are listed in -----'s name and have been for years, but her uncle helps her pay those bills. She stated that when she first moved into

the home there that ----- was living with her, but he moved out during the year 2007 prior to the birth of their child.

- 11) West Virginia Income Maintenance Manual Section 15.2.C states in pertinent part:

DEPRIVED OF PARENTAL SUPPORT AND CARE (AFDC-Related Medicaid)

The dependent child must be deprived of parental support and care and the cause of this deprivation must be identified as described in the following sections.

1. Relationship of Deprivation Factor to Living Arrangements

The living arrangements of the child determine the broad category of deprivation applicable to the child.

a. Child Lives With Both Parents

The deprivation factor must be incapacity of either parent or unemployment of the parent who is the principal wage earner.

VIII. CONCLUSIONS OF LAW:

- 1) The issue for this hearing is whether or not the evidence supports that ----- lives in the Claimant's household. The parties have agreed that if ----- is determined to live in the Claimant's household she would not meet the eligibility requirements for the AFDC-Related Medicaid program.
- 2) The totality of the evidence submitted for consideration supports that ----- and the Claimant live together. Although the testimony from the Claimant and her uncle asserts that ----- moved out of the Claimant's household in 2007 and that he does not live with her now, the testimony from the Department's Investigators supports that he does live in the Claimant's home. Additionally, the written evidence supports that ----- lives with the Claimant. Verification from the postal service shows he receives his mail, including unemployment compensation benefits, at the same address as the Claimant, and he continues to register vehicles utilizing her address as his own.
- 3) Policy provides that for AFDC-Related Medicaid, when both parents are in the home, the deprivation factor of either incapacity or unemployment must be met.
- 4) There was no evidence presented to support that either parent is incapacitated. The Department determined that the Claimant is not eligible because ----- lives in the home and works more than one hundred (100) hours per month at his employment. The Claimant does not dispute this part of the determination.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny the Claimant's eligibility for AFDC-Related Medicaid based on the fact that ----- lives in her household and his employment renders her ineligible for the program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th Day of November, 2010.

**Cheryl Henson
State Hearing Officer**