



**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**

March 17, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 16, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for Medicaid benefits based on your failure to provide necessary information to establish your eligibility for the 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.

Medicaid eligibility is based on current policy and regulations. Some of these regulations provide that during the application process, the applicant is responsible to provide necessary information regarding their circumstances in order to establish eligibility for program benefits. A decision regarding the individual's eligibility is based on the information supplied during the application process.

The information which was submitted at your hearing revealed that while you provided information to the Department concerning the total value of your profit sharing plan, you failed to provide information concerning the total amount of these monies that you may have access to through early withdraw.

It is the decision of the State Hearing Officer to Uphold the action of the Department to deny your Medicaid application dated October 16, 2009.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Ann Hubbard, ESS

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

-----,

Claimant,

v.

Action Number: 10-BOR-649

**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 March 17, 2010 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 March 16, 2010 on a timely appeal, filed December 23, 2009.

It shall be noted here that the above matter was scheduled to be heard on February 18, 2010 and rescheduled based on the Department's request.

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
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 deny the Claimant's application for Medicaid services based on failure to supply information concerning his eligibility for the program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 1.2, 4.2, 6.2, 11.3-11.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Verification Checklist dated October 19, 2009
- D-3 Denial Notice dated November 18, 2009
- D-4 West Virginia Income Maintenance Manual Chapter 1.2

VII. FINDINGS OF FACT:

- 1) On October 16, 2009, the Claimant completed an application for SSI-Related Medicaid Assistance with the Department of Health and Human Resources, hereinafter the Department. During the application process, the Claimant stated that he was not employed due to physical injury and that his liquid assets included a profit sharing account from his previous employer.
- 2) On October 19, 2009, the Department issued Exhibit D-2, Verification Checklist. This notice informed the Claimant that additional information was required to determine his eligibility for Medicaid benefits. This exhibit documents in pertinent part:

Please verify status and amount and accessibility of your profit sharing financial account. Please report on your employment status also.

If this information is not made available to this office by 11/18/09 your Medicaid application will be denied effective 10/09.

- 3) Ann Hubbard, Department representative, testified that the Claimant verified the balance of the account to be \$3782.46 in the allotted timeframe but failed to inform the Department as to whether or not he could access the monies in said account.
- 4) On November 18, 2009, the Department issued Exhibit D-3, Denial Notice informing the Claimant that his application for Medicaid benefits had been denied. This notice documents in pertinent part:

Your 10/16/09 application for Medical Assistance has been denied.

Reason: All individual are ineligible, please see the reason below.

The following individuals are ineligible.

----- -This individual is not Aged, Blind, or Disabled which is a requirement for this Medicaid coverage.

- 5) The Claimant testified that he has a tenth grade education and some information must be explained to him in order for him to fully comprehend the situation. He related that he does have a profit sharing account in the amount of \$3782.46 with -----, but he cannot access the full amount as he is not fully vested with the profit sharing system. The Claimant indicated that he is only ten percent vested with the account and any removal of funds would result in him receiving ten percent of the balance of the account. He further reiterated that this information regarding the accessibility of the funds could be obtained through the company secretary. The Claimant stated that an individual must be fully vested with six years of service to the company to have access to the full amount of the funds. The Claimant testified that he is also in debt to the owner of the company and any monies that he would withdraw would be owed on his corresponding debt.

- 6) West Virginia Income Maintenance Manual Chapter 1.2 documents in part:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of the application
- Closure of the active AG
- Removal of the individual from the AG
- Repayment of benefits

- 7) West Virginia Income Maintenance Manual Chapter 4.2 documents that:

All bank accounts, certificates of deposit, and all other liquid assets must be verified for all programs subject to an asset test.

- 8) West Virginia Income Maintenance Manual Chapter 11.3 documents that:

For SSI-Related Medicaid purposes that maximum allowable assets for an assistance group of one is \$2000.00.

- 9) West Virginia Income Maintenance Manual Chapter 11.4 documents:

SSI Related Medicaid: Profit Sharing Accounts- The amount counted is the total cash value of the account or plan, minus the amount of the penalty that would be applied for the early withdraw.

- 10) West Virginia Income Maintenance Manual Chapter 6.2 documents:

The DFA-6 (Verification Checklist) may be used during any phase of the eligibility determination process. At the time of application, it is given or mailed to the applicant to notify him of information or verification he must supply to establish eligibility.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant applied for and was subsequently denied Medicaid benefits for failing to provide additional information concerning his profit sharing account.
- 2) Policy stipulates that it is the client's responsibility to provide information concerning their circumstances so that the Worker is able to make a correct decision about the individual's eligibility. In the event that the client is not able to provide the required verification, the Worker must assist him with the retrieval of the necessary information.
- 3) The information supplied by the Claimant notified the Department of the total amount of monies in the profit sharing account but did not inform the Department on whether or not the funds were accessible to the Claimant.
- 4) The Department was not aware of any difficulties that the Claimant was experiencing in obtaining the necessary information and therefore did not assist the Claimant to secure information concerning the accessibility of profit sharing funds.
- 5) Despite the erroneous denial notice issued to the Claimant, the Department acted correctly in denying the Claimant's application for Medicaid services based on the information made available.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to deny the Claimant's application for Medicaid benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of March 2010.

**Eric L. Phillips
State Hearing Officer**