



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313  
(304) 746-2360, ext. 2227

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

September 9, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NOS.: 15-BOR-2465 and 15-BOR-2466

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

Cc: Misty Fielder, Economic Service Worker

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

██████████,

**Appellant,**

v.

**Action Numbers: 15-BOR-2465 and  
15-BOR-2466**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on September 9, 2015, on an appeal filed July 2, 2015.

The matter before the Hearing Officer arises from the February 13, 2015 decision by the Respondent to terminate the Appellant's Children's Health Insurance Program (CHIP) benefits and the Respondent's July 2, 2015 decision to terminate the Appellant's children's Medicaid benefits.

At the hearing, the Respondent appeared by Debra Kraszyk, Economic Service Worker. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Correspondence from DHHR ██████████ to the Appellant, dated January 12, 2015
- D-2 Correspondence from DHHR ██████████ to the Appellant, dated February 13, 2015
- D-3 Correspondence from DHHR ██████████ to the Appellant, dated April 16, 2015
- D-4 Correspondence from DHHR ██████████ to the Appellant, dated July 2, 2015
- D-5 Correspondence from DHHR ██████████ to the Appellant, dated July 8, 2015

- D-6 West Virginia Income Maintenance Manual, Application/Redetermination Process, §1.2.B.2
- D-7 Reception Log Search computer screen print, dated January 12, 2015 through July 8, 2015, and Inbox Listing computer screen print for inROADS applications
- D-8 Case Comments computer screen print, dated January 16, 2015 through July 20, 2015
- D-9 WV Health Care Coverage for Kids and Expectant Moms application, date-stamped received July 13, 2015

**Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) The Appellant is a recipient of Children's Medicaid benefits and received children's Medicaid in the months of January 2015, April 2015, May 2015, June 2015, July 2015 and ongoing.
- 2) On January 12, 2015, the Department mailed a Medicaid redetermination form to the Appellant. The review form was to be signed and returned by the Appellant by February 1, 2015. If the review form was not completed by the deadline, the Appellant's Medicaid benefits would be terminated effective February 28, 2015. The redetermination form was mailed to the Appellant at [REDACTED]. (Exhibit D-1)
- 3) On January 16, 2015, the Appellant telephoned the Department's Customer Service Center and reported a change of address. The Appellant's new address was [REDACTED]. (Exhibit D-8)
- 4) On February 13, 2015, the Department mailed the Appellant notice that her West Virginia Children's Health Insurance Program (CHIPs) benefits were being closed because she failed to complete an eligibility review. (Exhibit D-2)
- 5) On April 16, 2015, the Department mailed the Appellant notice that the children's Medicaid benefits for her daughter had been approved effective May 1, 2015. (Exhibit D-3)

- 6) On May 7, 2015, a Department worker returned the Appellant's telephone call and left a voicemail message that the Appellant's daughter's Medicaid benefits were active. (Exhibit D-8)
- 7) On July 2, 2015, a Department determined that the Appellant had not completed an eligibility review and that her benefits had been approved in error. A notice was mailed to the Appellant that her children's Medicaid benefits were being terminated at the end of July 2015. (Exhibit D-4)
- 8) On July 8, 2015, the Department re-instated the children's Medicaid benefits pending a hearing decision in this matter. (Exhibit D-5)
- 9) On July 13, 2015, the Appellant submitted an application for children's Medicaid requesting back-dated coverage. Children's Medicaid was approved for the month of July 2015 and ongoing and back-dated coverage for the month of April 2015. (Exhibits D-8 and D-9)
- 10) The Appellant incurred medical expenses for her daughter's ongoing medical issues in the months of February and March 2015.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §1.2.B.2, mandates that periodic reviews of total eligibility for recipients are required by law. Failure by the client to complete these redeterminations usually results in ineligibility.

WV IMM §6.3 outlines client notification policy and requires that Medicaid notices include the specific action being taken, the date the action is effective, the reason for the action and any other action being taken. A client must receive advance notice in all situations involving adverse actions except those as a result of a mass change or when a client has signed a waiver of notice. The advance notice requirement is that notification be mailed to the client at least thirteen days prior to the first day of the month in which the benefits are affected. The date on the notice must be the date it is mailed.

WV IMM §1.9.M establishes that the beginning date of eligibility is the first day of the month of application, if eligible. Eligibility may be backdated up to three months prior to the month of application, provided all eligibility requirements were met.

### **DISCUSSION**

The Appellant did not receive notice that her daughter was due for a Medicaid redetermination in January 2015 because of a recent move. Had the Customer Service Center worker reviewed a recent history of notices which were mailed to the Appellant's previous address, they would have noted that the redetermination form had been mailed and could have offered to send the Appellant a new one, but failed to do so. Although policy does not require a worker to complete

such an action, the Department's representative testified that it is considered the best operating procedure to do so. The January 2015 redetermination form indicated the Appellant's children's Medicaid benefits would be terminated effective February 28, 2015. It is unclear why the Appellant did not receive children's Medicaid benefits for the month of January 2015.

The notice mailed to the Appellant in February 2015 indicated that her daughter's WV CHIPs coverage was being terminated at the end of February 2015. The Appellant's daughter had been covered by Medicaid and not WV CHIPs. The Appellant testified that in the past she has simultaneously received WV CHIPs and Medicaid coverage for her daughter in error. She provided credible testimony that she thought a similar situation had occurred and disregarded the notice concerning the WV CHIPs coverage. There is no indication that the Appellant ever received notice that her daughter's Medicaid benefits were being terminated.

In May 2015, the Appellant contacted the Department and was assured via telephone voicemail message that her daughter's Medicaid was open and active. It was not until June 2015 that the Department worker determined that the Appellant had never completed a redetermination for her daughter's Medicaid and subsequently terminated the Medicaid benefits with proper notice to the Appellant.

In addition to the Department erring by not providing the Appellant proper notice that her daughter's Medicaid benefits were being terminated effective in either February or March 2015, it should be noted that the Appellant testified that had she known her daughter's redetermination had not been completed when she contacted the Department in May 2015, she would have requested the necessary paperwork to complete the review. The Appellant's argument is a likely scenario. Had the Appellant completed the redetermination in the month of May, her daughter would have been eligible for back-dated coverage for three months prior to the month of May, which would include the months of February and March 2015.

### **CONCLUSIONS OF LAW**

- 1) Policy establishes that the Department is required to provide recipients with notice of adverse action thirteen days prior to the date of action and that the notice must contain the specific action being taken and the date of action. The Department failed to provide the Appellant notice that her children's Medicaid benefits were being terminated effective in either February or March 2015.
- 2) Because the Department failed to provide the Appellant proper notice that her daughter's Medicaid benefits had been terminated for failure to complete a redetermination until July 2, 2015, the Appellant is entitled to receive children's Medicaid benefits for the months of February and March 2015.

**DECISION**

It is the decision of the State Hearing Officer to **reverse** the Department's decision to terminate the Appellant's children's Medicaid benefits effective February 1, 2015. Because the Appellant's daughter has already received Medicaid benefits for the months of January, April, May and June 2015, only benefits for the months of February and March 2015 shall be reinstated.

**ENTERED this \_\_\_\_ Day of September 2015.**

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**Donna L. Toler  
State Hearing Officer**