



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661**

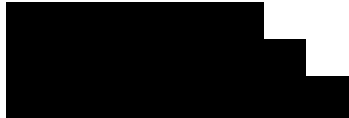
**Bill J. Crouch
Cabinet Secretary**

**M. Katherine Lawson
Inspector General**

Phone: (304) 235-4680

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January 31, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-3026

Dear Mr. [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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Gross, WV DHHR, [REDACTED] County Office

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

████████████████████,

Appellant,

v.

ACTION NO.: 17-BOR-3026

**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' (WV DHHR) Common
Chapters Manual. This fair hearing was convened on January 30, 2018, on an appeal filed
December 22, 2017.

The matter before the Hearing Officer arises from the Respondent's termination of the
Appellant's eligibility for Adult Medicaid (MGAD).

At the hearing, the Respondent appeared by Representative Kim Vance, Economic Service
Supervisor. The Appellant appeared *pro se*. Both participants were sworn and the following
documents were admitted into evidence.

Department's Exhibits:

- D-1 Letter from Department to Appellant, dated November 13, 2017, returned to
Department by the US Postal Service (USPS)
- D-2 Letter from Department to Appellant, dated November 28, 2017
- D-3 Form DFA-FH-1, hearing request form, completed by Appellant
- D-4 Letter from Department to Appellant, dated January 9, 2018

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into
evidence, 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 was a recipient of Adult Medicaid (MGAD). On November 13, 2017, the Department sent to the Appellant a mail-in benefit review form (Exhibit D-1).
- 2) On November 27, 2017, the WV DHHR, [REDACTED] County office, received the review form back from the USPS as returned mail. A label on the returned letter indicated the Appellant received his mail at a street address in [REDACTED].
- 3) On November 28, 2017, the Department sent the Appellant a letter (Exhibit D-2) indicating his Medicaid benefits were closing effective January 1, 2018, because he had moved to the state of [REDACTED].
- 4) On December 22, 2017, the Appellant requested a fair hearing to protest the closure of his eligibility for Adult Medicaid (MGAD).
- 5) On January 8, 2018, the Appellant completed an application for MGAD through the WV DHHR internet site, InROADS. On January 9, 2018, the Department sent the Appellant a letter (Exhibit D-4), informing him that his application for MGAD had been approved.

APPLICABLE POLICY

The WV DHHR Income Maintenance Manual (IMM) Chapter 2, §2.2 reads as follows in part:

To be eligible to receive benefits, [a] client must be a resident of West Virginia. The client must live within the borders of West Virginia for purposes other than vacation. There is no minimum time requirement for how long the client must live or intends to live in West Virginia. The client is not required to maintain a permanent or fixed dwelling. An individual remains a resident of the former state until he [or she] arrives in West Virginia with the intention of remaining indefinitely. Therefore, intent to establish or abandon residency must be known before the state of residence is determined.

DISCUSSION

The Department's representative testified that the Department mailed a review letter to the Appellant on November 13, 2017, but the USPS returned this letter to the Department with a label informing the sender that the recipient had moved and left a forwarding address in [REDACTED] (Exhibit D-1). She testified that the worker who received this returned mail attempted to reach the Appellant by telephone, but found that his telephone service had been discontinued. She testified that because the Appellant had not completed his benefit review and because the Department had sufficient reason to believe he had relocated to the state of [REDACTED] the worker discontinued his Medicaid eligibility effective January 1, 2018. She added

that the Department sent the Appellant a letter informing him of the closure to his [REDACTED] mailing address on November 28, 2017 (Exhibit D-2).

The Appellant testified that he had moved to [REDACTED] in November 2017, but he did not live there long and moved back to West Virginia. He testified that he returned to a different mailing address than his previous address prior to moving to [REDACTED]. He testified that when he received the Medicaid closure letter (Exhibit D-2), he requested a fair hearing (Exhibit D-3), and requested that his benefits remain open until a fair hearing decision could be rendered.

The Department's representative testified the Department received the fair hearing request and took action to ensure the Appellant's benefits would remain open pending the outcome of the fair hearing. She stated the Appellant reapplied for MGAD on January 8, 2018, and the application was approved on the next day (Exhibit D-4). She added that because the Appellant had requested his benefits remain open pending the hearing outcome, and because the Appellant had been reapproved for MGAD on January 9, 2018, his Medicaid benefits had continued from November 2017 through January 2018 without interruption.

The Department acted on the best information at its disposal in determining that the Appellant had moved out of the state of West Virginia. The Department acted correctly to close the Appellant's MGAD Medicaid because he had moved out of state, and the Department acted promptly to reopen his MGAD upon learning he had returned.

CONCLUSION OF LAW

Because the Appellant moved to [REDACTED] in November 2017, the Department acted correctly to discontinue the Appellant's eligibility for MGAD Medicaid, pursuant to WV DHHR IMM Chapter 2, §2.2. However, the Appellant has reestablished residency in West Virginia and his Medicaid has continued without interruption.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to discontinue the Appellant's eligibility for Adult Medicaid (MGAD). However, the Appellant has reestablished residency in West Virginia and his Medicaid has continued without interruption.

ENTERED this 31st Day of January 2018.

Stephen M. Baisden
State Hearing Officer