



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
Berkeley County DHHR
PO Box 1247
Martinsburg, WV 25402

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

October 30, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-2532

Dear [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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Peter VanKleeck, BCF, [REDACTED] Co. DHHR

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

[REDACTED],

Appellant,

v.

Action Number: 19-BOR-2532

**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 [REDACTED]. 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 convened on October 29, 2019, on appeal filed October 3, 2019.

The matter before the Hearing Officer arises from the September 18, 2019, decision by the Respondent to close the Appellant's Specified Low Income Medicare Beneficiary (SLIMB) benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Medicaid Review form (MREV) dated August 12, 2019
- D-3 Closure Notice (CMC2), dated September 18, 2019
- D-4 WV Income Maintenance Manual (WV IMM), Chapter 1, §1.2.2.B

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 was a recipient of Specified Low Income Medicare Beneficiary (SLIMB) benefits.
- 2) On August 12, 2019, the Respondent sent the Appellant a SLIMB review form notifying her that she should complete and return the form before September 1, 2019, and that her failure to do so will result in benefit closure by September 30, 2019. (Exhibit D-2)
- 3) On September 18, 2019, the Respondent sent the Appellant a letter informing her that her SLIMB Medicaid would be closed after September 30, 2019, because she had not completed a benefit review. (Exhibit D-3)
- 4) The Appellant submitted a request for a fair hearing on October 3, 2019.

APPLICABLE POLICY

WV IMM, Chapter 1, §1.2.2.B, explains that periodic reviews of total eligibility for recipients are mandated by federal law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination will result in termination of benefits. If the client completes the redetermination process by the specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

SLIMB cases are redetermined annually and are scheduled in the 12th month of eligibility. (WV IMM, Chapter 1, §1.16.10.B) The redetermination process for SLIMB is initiated by the eligibility system which generates a pre-populated form and letter of explanation to the client. The redetermination form is due by the first day of the 12th month of the certification. If the redetermination form is not received by the adverse action date, the assistance group is issued a notice of closure (WV IMM, Chapter 1, §1.16.10.C)

WV IMM, Chapter 9, §9.3.1.D.e, states that benefits are not reinstated or restored pending the Fair Hearing or Pre-Hearing Conference decision after expiration of the 13-day advance notice period.

DISCUSSION

The Appellant was a recipient of SLIMB benefits. On August 12, 2019, the Respondent sent the Appellant a review form notifying her that she must complete the review form and send it back by September 1, 2019 in order to maintain her SLIMB eligibility. This notification also explained that her failure to return the completed review form would result in benefit closure on September 30, 2019. Because the Appellant had not returned her SLIMB review form as of September 18, 2019, the Respondent sent her a notice that her SLIMB benefits would close after September 30, 2019. On October 3, 2019, the Appellant requested a fair hearing.

The Appellant asserted she did not receive the review form or the packet of hearing exhibits which were both sent to the mailing address on file. The Appellant was given the opportunity to

reschedule the hearing to allow the exhibits to be resent to her; however, she chose to proceed. The Appellant averred she only received the September 18, 2019 closure notice and subsequent Scheduling Order. There was no testimony or contention that the Appellant has had other issues with non-delivery of her mail. As the Appellant's address on file was confirmed to be her correct mailing address, along with the fact that she did receive other correspondence sent to her, the preponderance of evidence supports that the review forms were correctly sent to the Appellant.

The Appellant also contended that her benefits should have continued after she submitted the hearing request. The Appellant's 13-day advance notice period expired on September 30, 2019. The Appellant's hearing request was submitted on October 3, 2019. Per policy, because the 13-day advance notice period had expired, the Appellant's SLIMB benefits were not reinstated pending this decision.

CONCLUSIONS OF LAW

- 1) Policy requires that SLIMB eligibility be reviewed annually. If the redetermination form is not received by the adverse action date, the assistance group is issued a notice of closure.
- 2) The Appellant was sent a SLIMB review form which was required to be returned to the Respondent by September 1, 2019.
- 3) The Appellant did not return her SLIMB eligibility review form by September 1, 2019.
- 4) The Respondent correctly notified the Appellant on September 18, 2019, that her benefits were being closed after September 30, 2019.
- 5) Policy directs that benefits are not reinstated pending the fair hearing decision after the expiration of the 13-day advance notice period.
- 6) Because the 13-day advance notice period expired on September 30, 2019, the Appellant's SLIMB benefits were not eligible to be reinstated pending the fair hearing decision as her request was filed on October 3, 2019.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's closure of the Appellant's SLIMB benefits.

ENTERED this 30th day of October 2019.

Lori Woodward, State Hearing Officer