



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review**

**Jeffery H. Coben, MD  
Interim Cabinet Secretary**

**Sheila Lee  
Interim Inspector General**

May 4, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
BOR ACTION NO.: 23-BOR-1519

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,

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

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Rebecca Skeens, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-1519**

**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 April 27, 2023, on an appeal April 10, 2023.

The matter before the Hearing Officer arises from the April 4, 2023 decision by the Respondent to terminate the Appellant's Supplemental Security Income (SSI) Medicaid eligibility.

At the hearing, the Respondent appeared by Rebecca Skeens, 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 MREV recertification dated March 30, 2023
- D-2 Case comments April 1, 2023
- D-3 Notice of Decision dated April 4, 2023
- D-4 Verification Checklist dated April 4, 2023
- D-5 Paystubs dated April 7, 2023 and March 24, 2023
- D-6 Case comments April 13, 2023
- D-7 Notice of Decision dated April 14, 2023
- D-8 Medicare screen-print.
- D-9 Case comments April 12, 2023
- D-10 West Virginia Income Maintenance Manual 23.11.1

- D-11 West Virginia Income Maintenance Manual 10.14.1
- D-12 Case comments November 2020 and January 15, 2021
- D-13 Data Exchange SSI Information Response

**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 Supplemental Security Income (SSI).
- 2) Due to the receipt of SSI, the Appellant was eligible for SSI Medicaid.
- 3) The SSA terminated the Appellant's SSI in September 2020.
- 4) The Appellant appealed the SSA decision and was placed in hearing status on September 14, 2020. (Exhibit D-13)
- 5) A hearing regarding the termination of SSI was held with the SSA on July 23, 2021. (Exhibit D-13)
- 6) SSA upheld the decision to terminate the Appellant's SSI on July 23, 2021. (Exhibit D-13)
- 7) Due to the COVID-19 public health emergency, the Respondent was prohibited from terminating Medicaid coverage.
- 8) Due to the COVID-19 public health emergency recertifications for Medicaid coverage during this period were not required.
- 9) The Respondent reinstituted Medicaid recertifications on April 1, 2023.
- 10) The Appellant's Medicaid coverage was due for recertification by April 30, 2023. (Exhibit D-1)
- 11) On March 30, 2023, the Appellant submitted a MREV, as a recertification for Medicaid benefits for himself and his spouse. (Exhibit D-1)

- 11) On April 4, 2023, the Respondent issued a Notice of Decision informing the Appellant that his eligibility for Medicaid assistance would terminate effective May 1, 2023 because he no longer receives SSI. (Exhibit D-3)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual 23.11.1 documents in pertinent part:

Supplemental Security Income (SSI) is a public assistance program administered by the Social Security Administration (SSA), which provides case benefits to eligible aged, disabled, or blind individuals. There is no spenddown provision.

States have some options regarding Medicaid coverage for SSI recipients. West Virginia elected to cover all SSI recipients and to accept SSA's determination of eligibility for SSI as the sole eligibility determination for Medicaid. West Virginia is referred to as a "1634" state, based on the section of the Social Security Act that permits this.

Consequently, there is no application or eligibility determination process for SSI Medicaid. The Department depends upon SSA for the information needed to open, evaluate, and close continuing eligibility for SSI Medicaid cases. SSI Medicaid eligibility ends when SSI ends in most situations.

The Worker uses information from a data exchange between Department of Health and Human Resources (DHHR) and SSA to open the SSI Medicaid benefit.

Trust provisions apply to SSI Medicaid and must be explored prior to SSI Medicaid approval and at redetermination.

West Virginia Income Maintenance Manual Chapter 10.14 documents in pertinent part:

The Worker closes the Supplemental Security Insurance (SSI) Medicaid assistance group (AG) after advance notice when:

- The Worker receives a system alert and determines the individual is no longer eligible for SSI Medicaid.

- The Worker receives information from the Bureau of Medical Services (BMS) Buy-In Unit.

- The Worker receives information the client moved to another state

If the Worker receives information the client moved to another state and he has not received an alert, the Worker must notify the Social Security Administration (SSA) of the new address and indicate the

Medicaid AG is being closed because the individual moved to another state.

-The Worker obtains information the client receives Medicaid in another state.

-The client reports, prior to Worker's receipt of system alert, he no longer receives an SSI payment because SSA determined he is no longer eligible. This does not include a temporary suspension of SSI payments to recover an overpayment.

-Information from Social Security's State On-line Query (SOLQ) shows the individual's SSI payment was terminated.

-The individual is eligible to enroll in Medicaid and fails to do so.

When the closure of SSI Medicaid is for a reason other than a move to another state or death the Worker must evaluate the individual for all other Medicaid coverage groups, including Deemed SSI Medicaid Coverage.

West Virginia Income Maintenance Manual Chapter 10.14.2 documents in pertinent part:

When an individual no longer receives SSI because SSA determines he is no longer disabled, SSI Medicaid must be continued for 60 days from the date of the SSA notification that SSI will be stopped. It is continued after the 60-day period when:

The individual is not eligible under any other full-coverage Medicaid group without a spenddown; and

The individual has requested an appeal of the decision in a timely manner, as determined by SSA.

### **DISCUSSION**

During the COVID-19 public health emergency, the Respondent prohibited the termination of Medicaid assistance. Effective April 2023, the Respondent reinstituted recertifications to determine complete eligibility on all Medicaid assistance due to the expiration of the public health emergency. The Respondent received information from the Social Security Administration (SSA) that the Appellant was no longer eligible for Supplemental Security Income (SSI) and terminated his Medicaid assistance effective April 30, 2023. The Respondent must prove by a preponderance of the evidence that the Appellant was ineligible for Medicaid assistance based on the related information from the SSA.

West Virginia residents, approved for SSI through the SSA, are eligible to receive SSI Medicaid benefits through the West Virginia Department of Health and Human Resources. In most

situations, eligibility for SSI Medicaid ends when an individual is no longer eligible for SSI benefits through the SSA. Policy requires that SSI Medicaid is terminated, after advance notice, when the Department receives information from the SSA that the individual is no longer eligible for SSI. Upon termination of SSI Medicaid, for any reason other than a move to another state, the individual must be evaluated for all other Medicaid coverage groups. Additionally, policy requires that when an individual no longer receives SSI because they are no longer disabled, Medicaid coverage must be continued for 60 days from the date of termination notification.

In September 2020, the SSA administration determined that the Appellant was no longer eligible for SSI. The Appellant appealed the SSA decision. On July 23, 2021, the SSA upheld its decision that the Appellant was no longer eligible for SSI. (Exhibit D-13) Because the Respondent prohibited the termination of Medicaid assistance during the public health emergency, the Appellant remained eligible for Medicaid until April 2023. Upon the expiration of the public health emergency, the Respondent issued a Notice of Decision on April 4, 2023 (Exhibit D-3) terminating the Appellant's Medicaid assistance effective April 30, 2023 because he no longer received SSI.

Based on the information provided during the hearing, specifically, the reported information from the SSA that the Appellant was no longer eligible for SSI assistance, the Respondent acted correctly in terminating the Appellant's Medicaid assistance. However, there was no evidence to demonstrate that the Appellant was evaluated for additional Medicaid coverage after the denial; therefore, the Respondent must properly evaluate the Appellant for any additional Medicaid coverage.

### **CONCLUSIONS OF LAW**

- 1) Policy requires the termination of an individual's eligibility for SSI Medicaid when SSA determines the individual is no longer eligible for SSI benefits.
- 2) Policy requires when the closure of SSI Medicaid is for a reason other than a move to another state or death, the Department must evaluate the individual for all other Medicaid coverage groups, including Deemed SSI Medicaid Coverage.
- 3) The SSA determined that the Appellant was no longer eligible for SSI assistance in July 2021.
- 4) The Respondent maintained the Appellant's eligibility for SSI Medicaid until April 2023, the expiration of the public health emergency.
- 5) The Respondent correctly terminated the Appellant's SSI Medicaid coverage because he no longer received SSI through the SSA.
- 6) Upon termination of SSI Medicaid, the Appellant was not evaluated for additional Medicaid coverage.
- 7) The Appellant must be evaluated for additional Medicaid coverage.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate SSI Medicaid assistance; however, the case is **REMANDED** to the Respondent for evaluation of additional Medicaid coverage.

**ENTERED this \_\_\_\_ day of May, 2023.**

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Eric L. Phillips  
**State Hearing Officer**