



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 17, 2008

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 13, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny your SSI-Related Medicaid application.

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.

Eligibility for the SSI-Related Medicaid program is based on current policy and regulations. Some of these regulations state as follows: An individual who is age 18 or over is considered to be disabled if he is unable to engage in any substantial gainful activity due to any medically determined physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death (West Virginia Income Maintenance Manual Section 12.2 A).

The information which was submitted at your hearing revealed that medical documentation did not sufficiently show a severe impairment that would prevent you from performing substantial gainful employment.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your SSI-Related Medicaid application.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Fred Burns, Economic Service Supervisor, DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW

Claimant,

Action Number: 08-BOR-927

**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 13, 2008 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 13, 2008 on a timely appeal, filed February 25, 2008.

II. PROGRAM PURPOSE:

The Program entitled SSI-Related Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The amendment to the Social Security Act which established SSI and subsequent rules and regulations gave the states the same options regarding Medicaid coverage for SSI recipients. West Virginia elected to cover all SSI recipients and to accept SSA's determination process for SSI Medicaid. Consequently there is no application or eligibility determination process for SSI Medicaid. Instead the Department depends upon SSA for the information needed to open and close SSI Medicaid cases.

III. PARTICIPANTS:

Claimant
Witness for Claimant

Fred Burns, Economic Service Supervisor, DHHR

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in denying Claimant's SSI-Related Medicaid application.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Policy Manual , Section 12.2 A
20 CFR § 404.1505 - 404.1545 & 20 CFR § 404.1594, Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification Letter dated February 28, 2008
- D-2 Income Maintenance Manual Policy Section 12.2 A
- D-3 Decision of the Medical Review Team dated January 30, 2008 and Medical Packet used in the determination

Claimants' Exhibits:

- C-1 None

VII. FINDINGS OF FACT:

- 1) Claimant applied for SSI-Related Medicaid on November 19, 2007. The process was initiated for Claimant to be evaluated by the Medical Review Team, hereinafter MRT, for a disability determination.
- 2) Claimant had a general physical completed by Dr. [REDACTED] on November 21, 2007 which indicted a diagnosis of pre-hypertension. It also stated there was no duration of Claimant's inability to work full time (D-3).
- 3) The Department received MRT's decision on January 30, 2008 which stated:

DFS-RT-5 (general physical) of November 21, 2007 states "Yes" – can work full time. The above does not qualify for MAO-D (SSI-Related Medicaid).
- 4) The Department issued a denial notification letter on February 28, 2008 which stated:

Your application for Medicaid has been denied effective January 30, 2008.
The Medical Review Team finds you are not disabled.

- 5) The Claimant testified that he has severe back pain and has difficulty sitting, standing, lifting and getting up from a sitting position. He also has pain in his left leg that shoots up to his neck. He is currently not on any medications.

Claimant last worked in July 2007 as a ground maintenance worker. He quit when he started having back problems. His prior work experience includes security, work in a ship yard and a bouncer for a nightclub. Claimant has a General Education Degree and various heavy equipment licenses.

- 6) West Virginia Income Maintenance Manual 12.2 (A):
The definition of disability for Medicaid purposes is the same as the definitions used by SSA in determining eligibility for SSI or RSDI based on disability. An individual who is age 18 or over is considered to be disabled if he is unable to engage in any substantial gainful activity due to any medically determined physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death.
- 7) The Federal definition of disability is found in 20 CFR ' 404.1505:
There is a five-step sequence of questions to be addressed when evaluating claims of disability, these are set forth in 20 CFR ' 404.1520.

- (1) Is the person performing substantial gainful activity as defined in 20 CFR § 404.1510?
- (2) Does a severe impairment exist which is expected to last one year or result in death?
- (3) If the person has a severe impairment, is the impairment a listed impairment under 20 CFR § 404, Sub Part P, App. 1 or its medical equivalent?
- (4) What is the person's Residual Functional Capacity (20 CFR § 404.1545) and can that person still perform his or her former work?
- (5) Can the person do any other work based upon the combined vocational factors of dual functional capacity, age, education, and past work experience? (20 CFR ' 404.1520f)

- 8) 20 CFR ' 404.1508, 404.1509, & 404.1520 Code of Federal regulations:
Unless your impairment is expected to result in death, it must have lasted or must be expected to last for a continuous period of at least 12 months. We call this duration requirement. (404.1509) Your impairments(s) must be severe and meet the duration requirement before we can find you disabled. If you do not have any impairments or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education and work experience. (404.1520)
- 9) 20 CFR ' 404.1508, 404.1509, & 404.1520 Code of Federal regulations:
Impairment must result from anatomical, physiological or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms and laboratory findings, not only by your statement of symptoms. (§ 404.1508)

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant is not performing substantial gainful activity as defined in 20 CFR ' 404.1510.
- 2) Claimant does not have an impairment that is expected to last at least 12 months as indicated on the general physical (D-3):

Duration of inability to work full time: no disability

- 3) Medical documentation submitted fails to establish a severe impairment as set forth in the regulations. The major diagnosis as reported in the general physical was pre-hypertension. Claimant does not meet the criteria as a disabled individual.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny Claimant's SSI-Related Medicaid application.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of March, 2008.

Kristi Logan
State Hearing Officer