



May 22, 2025

REMOVED

RE: REMOVED v. WVDOHS
ACTION NO.: 25-BOR-1853

Dear REMOVED

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 Human Services. These same laws and regulations are used in all cases to ensure 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Keith Miller, Department Representative
REMOVED Appellant Representative

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

REMOVED

Appellant,

v.

Action Number: 25-BOR-1853

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for **REMOVED**. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This fair hearing was convened on May 21, 2025, upon a timely appeal filed on April 21, 2025.

The matter before the Hearing Officer arises from a delay in Medicaid application processing by the Respondent. A hearing request for a second matter (subsequent application denial) was accepted at the hearing on May 21, 2025. (Board of Review Action Number 25-BOR-2078)

At the hearing, the Respondent appeared by Keith Miller. The Appellant was not present for the hearing but appeared self-represented. **REMOVED** appeared as a witness for the Appellant. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1* Case Summary; Emails; Application dated February 28, 2025; Notices

Appellant's Exhibits:

A-1* Case Summary

A-2* Email; Consent form; Application dated February 28, 2025; Asset verifications;
Pre-Admission Screening form

A-3* Email
A-4* Email
A-5* Hearing request form
A-6* Email; Asset verifications
A-7* Email

*Evidence was admitted and will be given the weight it merits solely for the question of Medicaid application delay.

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 applied for Medicaid, specifically Long-Term Care, or Nursing Facility Medicaid, on February 28, 2025.
- 2) The Respondent had 30 days to process the Appellant's application.
- 3) The Respondent did not take action to approve, deny, or withdraw the Appellant's Medicaid application within 30 days of the February 28, 2025 application date.
- 4) Subsequent to the Appellant's April 21, 2025 hearing request, the Respondent has taken action to deny the Appellant's Medicaid application.
- 5) The Respondent and the Appellant continue to attempt to resolve the issues surrounding the approval of the Appellant's February 28, 2025 Medicaid application.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 24, addresses Long Term Care Medicaid, including Nursing Facility coverage. At §24.4.1.C.6, this policy addresses the Respondent's application processing deadlines as follows (emphasis added):

The Worker must give the applicant at least 10 days for any requested information to be returned.

The Worker must take eligibility system **action to approve, deny, or withdraw the application within 30 days of the date of application.**

WVIMM, Chapter 24, at §24.4.1.C.7, addresses agency processing delays, and reads, in pertinent part (emphasis added):

...

If the DOHS simply failed to act promptly on the information already received, **benefits are retroactive to the date eligibility would have been established had the DOHS acted in a timely manner.**

...

DISCUSSION

The Appellant requested a hearing for delay of Medicaid application processing. The Respondent must prove, by a preponderance of the evidence, that it met the established deadlines for Medicaid application processing for the Appellant's application.

The parties were not in dispute of the relevant facts for this hearing. The Appellant, through her agent with the [REDACTED] nursing facility, requested a hearing on April 21, 2025, to protest a delay in Medicaid application processing by the Respondent. Subsequent to this request, the Respondent processed the Appellant's application. Because the processing resulted in application denial, this created a second negative action which can be heard before the Board of Review. However, the parties did not advise the Board of Review until the hearing of this change in issues. A hearing request for the Respondent's subsequent denial was accepted at the hearing on May 21, 2025 (Board of Review Action Number 25-BOR-2078), and this hearing was limited to the delay issue. Evidence was accepted as presented but the parties were advised that the Hearing Officer will give the documents weight based on its merits, which will include its relevance to the delay question.

The Appellant applied for Medicaid on February 28, 2025. The Appellant's agents contacted the Respondent on March 24, 2025, and April 9, 2025, to request the status of the application. The Respondent did not process the application within the 30-day deadline set by policy. The Appellant's Medicaid application has since been denied, but (in addition to the newly filed appeal on this matter) the parties are working to resolve the issues and approve the application if possible. The Board of Review may order the Respondent to process the Appellant's application, but this has already happened. Retroactive benefits are not meaningful when the application processing results in denial, but if the parties ultimately approve the Appellant's February 28, 2025 Medicaid application the Respondent must provide benefits retroactive to the Appellant's application date.

CONCLUSIONS OF LAW

- 1) At the time of the Appellant's hearing request, the Respondent had not processed the Appellant's Medicaid application within the timeframes set by policy.
- 2) Since the time of the Appellant's hearing request, the Respondent has denied the Appellant's Medicaid application, satisfying the requirement for application processing delay.

- 3) If the parties independently establish approval of the Appellant's February 28, 2025 Medicaid application, the Medicaid benefits must be made retroactive to February 28, 2025.

DECISION

It is the decision of the State Hearing Officer that the Respondent failed to comply with application processing deadlines for the Appellant's Medicaid application, and, that based on the facts of the Appellant's case, there is no further relief available to the Appellant through the Board of Review.

ENTERED this _____ day of May 2025.

**Todd Thornton
State Hearing Officer**