



July 9, 2025

[REDACTED]

RE: [REDACTED] v. DoHS/BFA
ACTION NO.: 25-BOR-2201

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 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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Heather Walker, [REDACTED] DoHS

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

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-2201

**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 [REDACTED]. 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 July 2, 2025.

The matter before the Hearing Officer arises from the May 13, 2025, decision by the Respondent to terminate the Appellant's Medicaid Work Incentive benefits.

At the hearing, the Respondent appeared by Heather Walker, [REDACTED] DoHS. The Appellant appeared by his wife, [REDACTED]. Appearing as a witness for the Appellant was [REDACTED] DoHS. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Hearing Request received May 30, 2025
- D-3 Board of Review Scheduling Order dated June 11, 2025
- D-4 Medical Review Team Disability/Incapacity Evaluation dated May 12, 2025
- D-5 Notice of Termination dated May 13, 2025
- D-6 Medical Review Team Disability/Incapacity Evaluation dated June 6, 2025
- D-7 Notice of Denial dated June 6, 2025
- D-8 Case Comments
- D-9 West Virginia Income Maintenance Manual §§26.1 and 26.2
- D-10 West Virginia Income Maintenance Manual §§26.11 and 26.12
- D-11 Medical Records

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 Medicaid Work Incentive (M-MIN) benefits.
- 2) The Appellant underwent a financial and medical eligibility redetermination in May 2025 (Exhibit D-8).
- 3) On May 12, 2025, the State Medical Review Team (MRT) determined that the Appellant was not disabled (Exhibit D-4).
- 4) The Respondent sent a notice to the Appellant on May 13, 2025, advising that his M-WIN benefits would close effective May 31, 2025, as MRT found that he was not disabled (Exhibit D-5).
- 5) The Appellant submitted additional medical records for a reconsideration of the MRT decision (Exhibit D-11).
- 6) On June 6, 2025, MRT determined that the Appellant was not disabled, and notice was sent advising of the denial (Exhibits D-6 and D-7).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 26 explains M-WIN eligibility guidelines:

26.2.3 Disability

The applicant must be disabled as defined by the Social Security Administration (SSA). The SSA or the State Medical Review Team (MRT) may determine the disability. Disability, for this coverage group, is defined as a medically determined physical or mental condition that has lasted, or is expected to last, a year or more, or is expected to result in death.

26.3.10 Redetermination

M-WIN AGs are redetermined every six months, in the sixth month of eligibility.

- The Worker must set an alert and schedule the redetermination.
- The Worker is responsible for sending the appropriate review form so the redetermination is completed prior to or during the month in which it is due.

- When the redetermination is completed and the AG remains eligible, the new eligibility period begins the month immediately following the month of the redetermination.
- The Worker must set an alert for the next redetermination.

26.11.1 Closures

A Medicaid Work Incentive (M-WIN) client may be determined to be ineligible prior to the end of the six-month eligibility period if he:

- Is determined no longer disabled by the Social Security Administration (SSA) or the Medical Review Team (MRT)

26.11.3 Redetermination of Disability

The Department of Human Services (DOHS) cannot determine that a client who participates in the program is no longer disabled solely due to his employment or earned income, including self-employment income. At the time of the six-month redetermination, the Worker must ensure that the client continues to meet the disability requirement for the new period of eligibility. The client must be a current RSDI recipient or there must be a valid MRT decision that extends into the new eligibility period. MRT reevaluations will be completed at the time specified by the MRT.

26.12.1 Determining Disability

The Medicaid Work Incentive (M-WIN) client must meet the disability criteria established by the Social Security Administration (SSA). If the client does not receive Retirement, Survivors and Disability Insurance (RSDI) based on disability, disability must be established by the Medical Review Team (MRT).

26.12.2 Determining Eligibility for a Medically-Improved Disability

Eligibility for this group is determined by the MRT. These are clients who no longer meet the RSDI or SSI-Related disability definition due to a medical improvement brought about by treatments such as therapy or medication. Examples of potentially eligible clients are those with severe mental illness, HIV/AIDS, and epilepsy.

Code of Federal Regulations Title 20 §404 explains the Social Security Administration disability determination process:

404.1505 Basic definition of disability.

(a) The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To meet this definition, you must have a severe impairment(s) that makes you unable to do your past relevant work (see [§404.1560\(b\)](#)) or any other substantial gainful work that exists in the national economy. If your severe impairment(s) does not meet or medically equal a listing in appendix 1, we will assess your residual functional capacity as provided in [§§404.1520\(e\)](#) and [404.1545](#). (See [§§ 404.1520\(g\)\(2\)](#) and [404.1562](#) for an exception to this rule.) We will use this residual functional capacity assessment to determine if you can do your past relevant work. If we

find that you cannot do your past relevant work, we will use the same residual functional capacity assessment and your vocational factors of age, education, and work experience to determine if you can do other work. (See [§404.1520\(h\)](#) for an exception to this rule.) We will use this definition of disability if you are applying for a period of disability, or disability insurance benefits as a disabled worker, or child's insurance benefits based on disability before age 22 or, with respect to disability benefits payable for months after December 1990, as a widow, widower, or surviving divorced spouse.

404.1509 How long the impairment must last.

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 the duration requirement.

404.1510 Meaning of substantial gainful activity.

Substantial gainful activity means work that—

- (a) Involves doing significant and productive physical or mental duties; and
- (b) Is done (or intended) for pay or profit.

404.1520 Evaluation of disability in general.

(a) *General*—

(1) **Purpose of this section.** This section explains the five-step sequential evaluation process we use to decide whether you are disabled, as defined in [§404.1505](#).

(2) **Applicability of these rules.** These rules apply to you if you file an application for a period of disability or disability insurance benefits (or both) or for child's insurance benefits based on disability. They also apply if you file an application for widow's or widower's benefits based on disability for months after December 1990. (See [§ 404.1505\(a\)](#).)

(3) **Evidence considered.** We will consider all evidence in your case record when we make a determination or decision whether you are disabled. See [§404.1520b](#).

(4) **The five-step sequential evaluation process.** The sequential evaluation process is a series of five “steps” that we follow in a set order. See [paragraph \(h\)](#) of this section for an exception to this rule. If we can find that you are disabled or not disabled at a step, we make our determination or decision and we do not go on to the next step. If we cannot find that you are disabled or not disabled at a step, we go on to the next step. Before we go from step three to step four, we assess your residual functional capacity. (See [paragraph \(e\)](#) of this section.) We use this residual functional capacity assessment at both step four and step five when we evaluate your claim at these steps. These are the five steps we follow:

(i) At the first step, we consider your work activity, if any. If you are doing substantial gainful activity, we will find that you are not disabled. (See [paragraph \(b\)](#) of this section.)

(ii) At the second step, we consider the medical severity of your impairment(s). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in [§404.1509](#), or a combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. (See [paragraph \(c\)](#) of this section.)

(iii) At the third step, we also consider the medical severity of your impairment(s). If you have an impairment(s) that meets or equals one of our listings in appendix 1 of this subpart and meets the duration requirement, we will find that you are disabled. (See [paragraph \(d\)](#) of this section.)

(iv) At the fourth step, we consider our assessment of your residual functional capacity and your past relevant work. If you can still do your past relevant work, we will find that you are not disabled. See [paragraphs \(f\)](#) and [\(h\)](#) of this section and [§404.1560\(b\)](#).

(v) At the fifth and last step, we consider our assessment of your residual functional capacity and your age, education, and work experience to see if you can make an adjustment to other work. If you can make an adjustment to other work, we will find that you are not disabled. If you cannot make an adjustment to other work, we will find that you are disabled. See [paragraphs \(g\)](#) and [\(h\)](#) of this section and [§404.1560\(c\)](#).

(5) ***When you are already receiving disability benefits.*** If you are already receiving disability benefits, we will use a different sequential evaluation process to decide whether you continue to be disabled. We explain this process in [§404.1594\(f\)](#).

(b) ***If you are working.*** If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience.

(c) ***You must have a severe impairment.*** If you do not have any impairment 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. However, it is possible for you to have a period of disability for a time in the past even though you do not now have a severe impairment.

(d) ***When your impairment(s) meets or equals a listed impairment in appendix 1.*** If you have an impairment(s) which meets the duration requirement and is listed in appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience.

(e) ***When your impairment(s) does not meet or equal a listed impairment.*** If your impairment(s) does not meet or equal a listed impairment, we will assess and make a finding about your residual functional capacity based on all the relevant medical and other evidence in your case record, as explained in [§404.1545](#). (See [paragraph \(g\)\(2\)](#) of this section and [§404.1562](#) for an exception to this rule.) We use our residual functional capacity assessment at the fourth step of the sequential evaluation process to determine if you can do your past relevant work ([paragraph \(f\)](#) of this section) and at the fifth step of the sequential evaluation process (if the evaluation proceeds to this step) to determine if you can adjust to other work ([paragraph \(g\)](#) of this section).

(f) ***Your impairment(s) must prevent you from doing your past relevant work.*** If we cannot make a determination or decision at the first three steps of the sequential evaluation process, we will compare our residual functional capacity assessment, which we made under [paragraph \(e\)](#) of this section, with the physical and mental demands of your past relevant work. See [paragraph \(h\)](#) of this section and [§404.1560\(b\)](#). If you can still do this kind of work, we will find that you are not disabled.

(g) ***Your impairment(s) must prevent you from making an adjustment to any other work.***

(1) If we find that you cannot do your past relevant work because you have a severe impairment(s) (or you do not have any past relevant work), we will consider the same residual functional capacity assessment we made under [paragraph \(e\)](#) of this section, together with your vocational factors (your age, education, and work experience) to determine if you can make an adjustment to other work. (See [§404.1560\(c\)](#).) If you can

make an adjustment to other work, we will find you not disabled. If you cannot, we will find you disabled.

(2) We use different rules if you meet one of the two special medical-vocational profiles described in [§404.1562](#). If you meet one of those profiles, we will find that you cannot make an adjustment to other work, and that you are disabled.

404 Subpart P Appendix 1 – Listing of Impairments

5.00 Digestive Disorders

A. Which digestive disorders do we evaluate in this body system? We evaluate digestive disorders that result in severe dysfunction of the liver, pancreas, and gastrointestinal tract (the large, muscular tube that extends from the mouth to the anus, where the movement of muscles, along with the release of hormones and enzymes, allows for the digestion of food) in this body system. Examples of these disorders and the listings we use to evaluate them include chronic liver disease (5.05), inflammatory bowel disease (5.06), and intestinal failure (5.07). We also use this body system to evaluate gastrointestinal hemorrhaging from any cause (5.02), weight loss due to any digestive disorder (5.08), liver transplantation (5.09), small intestine transplantation (5.11), and pancreas transplantation (5.12). We evaluate cancers affecting the digestive system under the listings in 13.00.

D. What is inflammatory bowel disease (IBD), and how do we evaluate it under 5.06?

1. IBD is a group of inflammatory conditions of the small intestine and colon. The most common IBD disorders are Crohn's disease and ulcerative colitis. Remissions and exacerbations of variable duration are a hallmark of IBD.

2. We evaluate your signs and symptoms of IBD, such as diarrhea, fecal incontinence, rectal bleeding, abdominal pain, fatigue, fever, nausea, vomiting, arthralgia, abdominal tenderness, palpable abdominal mass (usually inflamed loops of bowel), and perianal disease (for example, fissure, fistulas, abscesses, or anal canal stenosis), when we assess the severity of your impairment(s). You may require supplemental daily nutrition due to IBD. There are two forms of supplemental daily nutrition we consider under 5.06B5: enteral nutrition (delivered directly to a part of your digestive system) via a gastrostomy, duodenostomy, or jejunostomy, and parenteral nutrition delivered via a central venous catheter. Enteral tube feedings delivered via nasal or oral tubes do not satisfy the requirement in 5.06B5.

3. Surgical diversion of the intestinal tract, including ileostomy and colostomy, does not preclude the ability to perform any gainful activity if you are able to maintain adequate nutrition and function of the stoma. However, if you are not able to maintain adequate nutrition, we will evaluate your impairment under 5.08.

4. IBD may also be associated with significant extraintestinal manifestations in a variety of body systems. These include, but are not limited to, involvement of the eye (for example, uveitis, episcleritis, or iritis); hepatobiliary disease (for example, gallstones or primary sclerosing cholangitis); urologic disease (for example, kidney stones or obstructive hydronephrosis); skin involvement (for example, erythema nodosum or pyoderma gangrenosum); or non-destructive inflammatory arthritis. You may also have associated thromboembolic disorders or vascular disease. These manifestations may not correlate with the severity of your IBD. If your impairment does not meet any of the criteria of 5.06, we will consider the effects of your extraintestinal manifestations in

determining whether you have an impairment(s) that meets or medically equals another listing, and when we assess your residual functional capacity.

5. Repeated complications of IBD.

a. Examples of complications of IBD include abscesses, intestinal perforation, toxic megacolon, infectious colitis, pyoderma gangrenosum, ureteral obstruction, primary sclerosing cholangitis, and hypercoagulable state (which may lead to thromboses or embolism). When we evaluate repeated complications of IBD, we consider all relevant information in your case record to determine the effects of your IBD on your ability to function independently, appropriately, effectively, and on a sustained basis. Factors we consider include, but are not limited to: your symptoms, the frequency and duration of your complications, periods of exacerbation and remission, and the functional effects of your treatment, including the side effects of your medication. Your impairment will satisfy this criterion regardless of whether you have the same kind of complication repeatedly, all different complications, or any other combination of complications; for example, two of the same kind of complication and a different one.

b. To satisfy the requirements described under 5.06C, your IBD must result in repeated complications and marked limitation in one of three areas of functioning: activities of daily living; maintaining social functioning; or completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace. If the complications do not last as long or occur as frequently as required under 5.06C, we will consider whether your IBD medically equals the listing.

c. *Marked* limitation means that the signs and symptoms of your IBD interfere *seriously* with your ability to function. Although we do not require the use of such a scale, “marked” would be the fourth point on a five-point rating scale consisting of no limitation, mild limitation, moderate limitation, marked limitation, and extreme limitation. We do not define “marked” by a specific number of activities of daily living or different behaviors in which your social functioning is impaired, or a specific number of tasks that you are able to complete, but by the nature and overall degree of interference with your functioning. You may have marked limitation when several activities or functions are impaired, or when only one is impaired. Additionally, you need not be totally precluded from performing an activity to have marked limitation, as long as the degree of limitation interferes seriously with your ability to function independently, appropriately, and effectively. The term “marked” does not imply that you must be confined to bed, hospitalized, or in a nursing home.

d. *Activities of daily living* include, but are not limited to, such activities as doing household chores, grooming and hygiene, using a post office, taking public transportation, or paying bills. We will find that you have “marked” limitation in activities of daily living if you have a serious limitation in your ability to maintain a household or take public transportation because of symptoms, such as pain, severe fatigue, anxiety, or difficulty concentrating, caused by your IBD (including complications of the disorder) or its treatment, even if you are able to perform some self-care activities.

e. *Maintaining social functioning* includes the capacity to interact independently, appropriately, effectively, and on a sustained basis with others. It includes the ability to communicate effectively with others. We will find that you have “marked” limitation in maintaining social functioning if you have a serious limitation in social interaction on a sustained basis because of symptoms, such as pain, severe fatigue, anxiety, or difficulty

concentrating, or a pattern of exacerbation and remission, caused by your IBD (including complications of the disorder) or its treatment, even if you are able to communicate with close friends or relatives.

f. *Completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace* involves the ability to sustain concentration, persistence, or pace to permit timely completion of tasks commonly found in work settings. We will find that you have “marked” limitation in completing tasks if you have a serious limitation in your ability to sustain concentration or pace adequate to complete work-related tasks because of symptoms, such as pain, severe fatigue, anxiety, or difficulty concentrating, caused by your IBD (including complications of the disorder) or its treatment, even if you are able to do some routine activities of daily living.

DISCUSSION

Policy stipulates that to receive M-WIN benefits, an individual must be determined disabled by the Social Security Administration (SSA) or the Medical Review Team (MRT). The Respondent terminated the Appellant’s M-WIN benefits when MRT determined that the Appellant was not disabled.

The Appellant completed a financial redetermination for M-WIN benefits in May 2025. Heather Walker, witness for the Respondent, testified that the Appellant was initially approved for M-WIN benefits without a disability determination by SSA or MRT due to worker error. Ms. Walker stated that the Appellant was referred to MRT in May 2025 for a disability determination and was found not disabled on May 12, 2025. The Appellant requested a reconsideration of the MRT decision and additional medical records were submitted for review. The Appellant was determined not disabled by MRT upon reconsideration on June 6, 2025.

The Appellant’s wife, [REDACTED], testified that the Appellant has irritable bowel syndrome (IBS) and chronic constipation for which he takes prescription medication. [REDACTED] stated the Appellant’s prescription for IBS and constipation costs over \$500 each month and he would experience severe cramping and nausea without treatment. [REDACTED] noted that the Appellant also takes prescription muscle relaxers for neck and back pain, is undergoing testing related to breathing problems and he was recently diagnosed with Lyme’s Disease.

Federal regulations define disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months. The SSA uses a five-step process to determine if an individual is disabled:

- Step 1: Is the applicant performing substantial gainful activity?
- Step 2: Does the applicant have a medically determinable impairment or combination of impairments which significantly limits ability to perform basic work activity?
- Step 3: Does the applicant’s impairment meet or equal the listing of impairments?
- Step 4: Does the applicant’s impairment prevent performance of past relevant work?
- Step 5: Does the applicant’s impairment prevent of other work considering age, education,

work experience or residual functional capacity?

While employment would disqualify an individual from meeting the definition of disability under SSA's guidelines, employment is an eligibility requirement for M-WIN, therefore the Appellant's ability to work would have no bearing on his disability determination for M-WIN.

The general physical and physician's summary completed by the Appellant's primary care physician indicated that the Appellant's prognosis was fair with the length of disability lasting less than one year and with no work limitations indicated. The Appellant's diagnoses of IBS and constipation are not listed impairments found in federal regulations under digestive disorders.

The medical documentation submitted to MRT was insufficient to establish that the Appellant meets the definition of disability as found in federal regulations. Whereas the Appellant was determined not disabled to by MRT, he does not meet the medical eligibility criteria to continue receiving M-WIN benefits.

CONCLUSIONS OF LAW

- 1) Policy stipulates that an individual must be determined disabled by the Social Security Administration or the Medical Review Team to meet the medical eligibility criteria for M-WIN.
- 2) The Appellant has not been determined disabled by the Social Security Administration.
- 3) The Appellant was determined not disabled by the Medical Review Team.
- 4) The medical documentation failed to establish that the Appellant had a listed impairment that is expected to last at least 12 months and significantly impairs his activities of daily living.
- 5) The Respondent's decision to terminate the Appellant's M-WIN benefits if affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Medicaid Work Incentive benefits.

ENTERED this 9th day of July 2025.

Kristi Logan
Certified State Hearing Officer