STATE OF WEST VIRGINIA
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

Sherri A. Young, DO, MBA, FAAFP
Cabinet Secretary

Ann Vincent-Urling
Interim Inspector General

March 7, 2024

[redacted]

RE: [redacted] v. WV DoHS
ACTION NO.: 23-BOR-3695

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 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Emily Boggess, Department Representative

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted],

Appellant,

v. **Action Number: 23-BOR-3695**

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 January 4, 2024, and reconvened on February 6, 2024, on a timely appeal filed December 14, 2023.

The matter before the Hearing Officer arises from the October 25, 2023 decision by the Respondent to deny Medicaid benefits.

At the hearing, the Respondent appeared by Emily Boggess. The Appellant was self-represented. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

D-1	Hearing form, IG-BR-29
D-2	Hearing Request form
D-3	Email dated December 13, 2023
D-4	Case comments from the Respondent's data system regarding the Appellant
D-5	West Virginia Income Maintenance Manual (WVIMM) excerpt

D-6	Notice (verification checklist) dated September 13, 2023
D-7	Notice dated September 29, 2023
D-8	Notice dated October 25, 2023
D-9	Medical Review Team (MRT) documents, dated October 12, 2023 Social Summary Outline General Physical Physician Summary

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 is a recipient of Medicaid benefits.

2) The Respondent processed a review of the Appellant's Medicaid eligibility on September 12, 2023, and issued a "verification checklist" (Exhibit D-6) to request the additional documents needed to determine eligibility.

3) On September 28, 2023, the Respondent processed the closure of the Appellant's Medicaid due to failure to return the requested documentation (Exhibit D-4).

4) On October 12, 2023, the Respondent processed verification provided by the Appellant on October 6, 2023, and requested additional information (Exhibit D-9) be completed by a physician and returned to the Respondent for a determination of disability by the Respondent's Medical Review Team (MRT).

5) The Respondent admitted error in its request for MRT information from the Appellant.

6) The MRT forms provided by the Respondent did not include application or referral dates.

7) The MRT forms were to be provided to the Appellant twice but were only sent once by the Respondent.

8) The Respondent's request to provide the MRT forms did not include a deadline for providing the information.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM), Chapter 13, §13.7.1.B, provides in part:

> NOTE: Medical reports must be requested within seven days after the date of application. In addition, follow-ups must be done every 30 days, when the medical reports are not received.

WVIMM, §13.7.1.B.2, addresses physician summary forms, and provides in part:

> …If the physician or mental health professional fails to complete the form, a second one must be sent. The date the second one is sent must be noted on the DFA-RT-2.
>
> The Worker must indicate which sections of the form must be completed by the physician or psychiatrist/psychologist.

WVIMM, §9.2.1, addresses the DFA-6 form used for information needed for eligibility determination, and provides in part:

> The DFA-6 may be used during any phase of the eligibility determination process. At the time of application, it is given or mailed to the applicant to notify him of information or verification he must supply to establish eligibility…If the client fails to adhere to the requirements detailed on the DFA-6, the application is denied or the deduction disallowed, as appropriate…This form also notifies the client that his application will be denied, or a deduction disallowed, if he fails to provide the requested information by the date specified on the form. The Worker determines the date to enter to complete the sentence, "If this information is not made available to this office by _____..." as follows.

WVIMM, §7.2.3, identifies client responsibilities in the eligibility verification process, and provides in part:

> …Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in one of the following:
>
> - Denial of the application
> - Closure of the assistance group (AG)
> - Determination of ineligibility
> - Disallowance of an income deduction or an incentive payment

DISCUSSION

The Appellant requested a hearing to appeal the Respondent's decision to terminate Medicaid benefits based on the failure to provide information necessary to establish eligibility. The Respondent must show, by a preponderance of the evidence that it correctly terminated the Appellant's Medicaid benefits on this basis.

The Appellant was a recipient of Medicaid. A review of the Appellant's Medicaid eligibility was scheduled in September 2023, after three years of not conducting Medicaid reviews due to the COVID-19 Public Health Emergency. The Respondent requested information (Exhibit D-6) on September 13, 2023, related to assets and a medical determination of disability. Initially the Respondent acted to terminate Medicaid based on the Appellant's failure to return this information, but subsequently made another request for medical information to be submitted to the Respondent's Medical Review Team (MRT) for a determination of disability. The Respondent provided the September 2023 verification checklist but did not provide the October 2023 verification checklist as evidence.

The Respondent testified to multiple errors in the verification request process, and without the October 2023 verification checklist as evidence for review, this testimony is accepted as valid. Although some of these errors may not be relevant, the testimony that a 'due date' was not provided violates policy (WVIMM, §9.2.1) and testimony that a second attempt was not made to obtain the MRT documents also constitutes a critical error (WVIMM, §13.7.1.B, and §13.7.1.B.2). In spite of the acknowledged errors, the Respondent contended that the information was necessary anyway and supported their action in the hearing.

The Respondent may not terminate Medicaid benefits for failure to return verification with the noted flaws in the verification request process. The Respondent's action is reversed, and the Respondent must reopen the Appellant's Medicaid benefits and initiate any verification process anew, following all policies and procedures before any subsequent action on the case.

CONCLUSIONS OF LAW

1) Because the Respondent failed to properly request medical information from the Appellant for a MRT determination of Medicaid eligibility, the Respondent may not terminate Medicaid benefits on this basis.

2) Because the Respondent terminated the Appellant's Medicaid benefits on this basis, the case is remanded to the Respondent to reopen the Appellant's Medicaid benefits from the effective date of closure and reinitiate any verification process entirely anew prior to subsequent negative action on the case.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the action of the Respondent to terminate Medicaid benefits for failure to provide information. The matter is **REMANDED** to the Respondent to reopen Medicaid benefits, restart any necessary verification requests, and fully comply with verification request policy prior to any subsequent negative action on this basis.

ENTERED this _____ day of March 2024.

_____

Todd Thornton
State Hearing Officer