April 18, 2024

[redacted]

RE: [redacted] v. WVDoHS
ACTION NO.: 24-BOR-1651

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: Recourse to Hearing Decision
Form IG-BR-29

cc: Lynn Scalise, Department Representative / April Wilson, Department Representative

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 24-BOR-1651**

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 April 4, 2024, upon a timely appeal filed on March 11, 2024.

The matter before the Hearing Officer arises from the February 16, 2024 decision by the Respondent to terminate Medicaid benefits.

At the hearing, the Respondent appeared by Rebecca Wallen. The Appellant appeared pro se. All witnesses were sworn and neither party provided documents to be admitted into evidence.

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 benefits.

2) The Appellant received Medicaid under the Transitional Medicaid (TM) coverage group.

3) The Respondent mailed a Periodic Review Letter to the Appellant on or about December 18, 2023, with a deadline of January 21, 2024, for the Appellant to complete and return in order to continue receiving the second phase of TM eligibility.

4) The Appellant returned the Periodic Review Letter to the Respondent after the deadline, on January 22, 2024.

5) The Respondent terminated the Appellant's TM coverage at the end of Phase I.

6) The Appellant had extenuating circumstances, specifically [redacted] which established good cause for not meeting the Periodic Review Letter deadline.

7) The Respondent did not address the extenuating circumstances proposed by the Appellant, nor did they indicate that consideration of good cause occurred before terminating the Appellant's Medicaid.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM), Chapter 23, §23.10.9, details the Transitional Medicaid (TM) coverage group, and provides, in part:

> This coverage group consists of families losing eligibility for Parents/Caretaker Relatives Medicaid because of earned income. When a child loses eligibility as a Child Under Age 19 and his family is receiving TM, he is included in the AG, if otherwise eligible.
>
> TM provides continuing medical coverage after Parents/Caretaker Relatives Medicaid eligibility ends and occurs in two phases, as described below.
>
> There is no application required for Transitional Medicaid. When a Parents/Caretaker Relatives Medicaid case becomes ineligible, the Worker must automatically determine eligibility for TM. If the case is closed in error instead of being converted to a TM case, the case must be reopened without reapplication by the client.
>
> Clients of TM are not referred or required to cooperate with BCSE.

West Virginia Income Maintenance Manual (WVIMM), Chapter 23, §23.10.9.A.6, details the responsibilities of the recipient and the Department with regard to Periodic Review Letters for Phase II TM coverage, and provides, in part:

> The client is required to report his gross earnings and day care costs for the first three months of Phase I coverage by the first workday after the 20th of the fourth month. He is also required to report the earnings and day care costs of any person in the home who is included in the Parents/Caretaker Relatives Medicaid Income Group. In addition, he must report his gross earnings and day care costs for the last

three months of Phase I coverage by the first workday after the 20th of the first month of Phase II coverage.

The client reports using Periodic Review Letters. The periodic review letter dates throughout this section will vary due to adverse action deadline and non-workdays. See Appendix A.

The eligibility system mails the client the first required periodic review letter by the third Friday of the third month.

If the client returns the completed letter, he has met one of the eligibility requirements for Phase II coverage.

Failure to return the completed letter, **without good cause**, by the first workday after the 20th of the fourth month, automatically renders the AG ineligible to participate in Phase II, after advance notice, but has no effect on Phase I coverage.

The Worker must notify the client of the consequences of his actions when the letter is not returned by the due date without good cause or is returned but is incomplete. The client has a right to a Fair Hearing on this issue because future eligibility is involved. The Worker must not wait until the end of Phase I coverage to notify the client of his ineligibility for Phase II. The process of determining eligibility or ineligibility, based on this reporting requirement, is completed prior to the end of Phase I coverage.

The Worker and Supervisor make the good cause determination and must be based on reasonable expectations. **Good cause generally will involve situations over which the client has little control.**

The eligibility system notifies the Worker when the form is due. If the client provides the completed form within the 13-day notice period, he has met this part of the eligibility requirement for Phase II.

DISCUSSION

The Appellant appealed the decision of the Respondent to terminate the Appellant's Medicaid benefits under the Transitional Medicaid coverage group for failure to return a Periodic Review Letter. The Respondent must show by a preponderance of the evidence that it correctly terminated the Appellant's Medicaid coverage on this basis.

Neither party provided documents for review at the hearing. Facts that could have been ascertained may not have been due to the failure of the parties to provide documentary evidence.

The Appellant received Medicaid under Phase I of a two-phase Medicaid coverage group referred to as Transitional Medicaid. This coverage group requires the recipient to return a form, or Periodic Review Letter, as part of the conditions for Phase II Medicaid eligibility. The Respondent mailed this letter to the Appellant in December 2023, and required her to return the letter in January 2024. This letter was not provided as evidence, but the Appellant did not dispute the mailing date or deadline date the Respondent's representative asserted in testimony.

The Appellant did contend that she had extenuating circumstances for not providing the document on time. Based on testimony, the Appellant provided the document one (1) day late. There was no testimony regarding a consideration of good cause by the Respondent for this delay before the determination was made to close benefits. The testimony of the Appellant established good cause for providing this document one (1) day late. The Appellant had back surgery and was unable to return the document in a timely manner for this reason. [redacted] clearly meets the policy description of good cause as a situation "…over which the client has little control."

Because the Appellant had good cause for returning the form late, the Respondent's decision to terminate Medicaid cannot be affirmed. However, because of the parties' failure to adequately provide documentary evidence or present all relevant facts, it cannot be determined if this fully satisfied the requirements to continue Medicaid eligibility into Phase II of TM coverage.

This matter is therefore reversed and remanded to the Respondent to treat the Appellant's January 22, 2024 provision of the Periodic Review Letter as timely, and to reevaluate it solely on the remaining eligibility factors. The Respondent will issue a new notification letter of this reevaluated decision. If the decision is favorable, the Respondent will reinstate Medicaid TM coverage back to the closure date. If the decision is unfavorable, the Appellant retains the right to appeal that decision separately.

CONCLUSIONS OF LAW

1) Because the Appellant received Medicaid under the TM coverage group, she was required to provide a Periodic Review Letter by a deadline set by policy.

2) Because the policy condition for closure of Phase II of Medicaid TM coverage is not solely based on failure to return the Periodic Review Letter, but the failure to do so without good cause, the Respondent must make good cause determinations in these circumstances.

3) Because the Respondent did not make a good cause determination, and because the Appellant established good cause during the hearing, the Respondent must not close Phase II of Medicaid TM coverage for failure to return the Periodic Review Letter.

4) The matter is remanded to Respondent to reevaluate the Appellant's Phase II Medicaid TM coverage, treating the January 22, 2024 Periodic Review Letter as timely due to established good cause, and exclusively evaluating it for remaining eligibility factors.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to terminate the Appellant's Medicaid benefits under the TM coverage group and **REMAND** the matter to the Respondent to reevaluate the Phase II eligibility based exclusively on remaining eligibility factors.

ENTERED this _____ day of April 2024.

_____

Todd Thornton
State Hearing Officer