September 26, 2024

[redacted]

RE: [redacted] **v. WVDoHS**
BOR Action No.: 24-BOR-3134

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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Kristyne Hoskins, BFA

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted],

Appellant,

v. **Action Number: 24-BOR-3134**

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 September 26, 2024, on appeal filed September 3, 2024.

The matter before the Hearing Officer arises from the August 19, 2024 decision by the Respondent to terminate the Appellant's eligibility for Transitional Medicaid assistance.

At the hearing, the Respondent appeared by Kristyne Hoskins, Economic Service Worker Senior. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Transitional Medicaid Periodic Report dated May 20, 2024
D-2 Notice of Decision dated August 19, 2024
D-3 Printout of Submitted Case items
D-4 West Virginia Income Maintenance Manual §23.10.9.A.6

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 Transitional Medicaid Assistance (TM).

2) On May 20, 2024, the Respondent issued a Transitional Medicaid Periodic Report which advised the Appellant that if she wished to continue to be considered for TM, that she was required to return the form on or before June 17, 2024. (Exhibit D-1)

3) The Appellant did not return the Periodic Report by the deadline date. (Exhibit D-3)

4) On August 19, 2024, the Respondent issued a Notice of Decision, advising the Appellant that her TM assistance would terminate August 31, 2024, because she failed to return the Periodic Report Form.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §23.10.9 documents regarding Transitional Medicaid:

> 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 §23.10.9.A documents in part:

> To be eligible for Phase I coverage, all the following conditions must be met:

• The AG became ineligible for Parents/Caretaker Relatives Medicaid due to the amount of income from employment;
• In determining ineligibility for Parents/Caretaker Relatives Medicaid, the Worker must consider income of the AG and any individual who would normally be included in the AG, but who has been penalized;
• The AG received Parents/Caretaker Relatives Medicaid in any three or more months during the six-month period immediately preceding the first month of ineligibility for Parents/Caretaker Relatives Medicaid;
• The AG did not receive Parents/Caretaker Relatives Medicaid fraudulently during any of the six months prior to the first month of Parents/Caretaker Relatives Medicaid ineligibility; and,
• The family has a dependent child who would be included in the Parents/Caretaker Relatives Medicaid AG, if the family were eligible.

West Virginia Income Maintenance Manual §23.10.9.A.6 documents:

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

Transitional Medicaid (TM) assistance is a coverage group which consists of families losing eligibility for Parent and Caretaker Relative Medicaid due to earned income. TM coverage consists of two phases and requires the completion of Periodic Reviews to maintain a continuation of benefit coverage between the multiple phases. Failure to complete Periodic Review automatically renders the assistance group ineligible to receive TM Phase II coverage.

On May 20, 2024, the Respondent issued a Periodic Report (Exhibit D-1) review to the Appellant for completion on or before June 17, 2024. Because the Appellant failed to complete the necessary Periodic Report review prior to the established deadline date, the Respondent terminated TM benefits effective August 31, 2024. The Appellant contests the termination of Medicaid benefits. The Respondent must prove by a preponderance of the evidence that the Appellant failed to complete the necessary requirements in order to maintain her Medicaid coverage.

The Appellant contends that she did not receive the issued Periodic Report (Exhibit D-1) review. The Appellant purported that she later found the letter in her yard with the certified mail form unattached to the letter. The Appellant indicated that she normally completes the required information for the Respondent in a timely manner and completed and returned the form to the local office the day prior to the scheduled hearing. Kristyne Hoskins, Economic Service Worker Senior provided a log (Exhibit D-3) of case items for the Appellant's TM assistance, which demonstrated that the Periodic Report had not been returned prior to the deadline. Ms. Hoskins purported that because the Appellant's TM assistance had closed on August 31, 2024, that she must reapply for Medicaid assistance.

Governing policy mandates that assistance groups report gross earnings and day care cost of the household, through Periodic Review Letters, by established dates to maintain coverage between the multiple phases of TM. Governing policy is specific, that failure to return the completed letter, *without good cause* [Emphasis added] by the first workday after the 20th of the fourth month, automatically renders the assistance group ineligible to participate in Phase II coverage. The Worker must notify the individual of the consequences of the actions when the Periodic Review Letter is not returned by the due date without good cause or is returned but incomplete. The Worker and Supervisor make the good cause determination and such determination must be based on reasonable expectations. Good cause generally will involve situations over which the individual has little control.

The Respondent terminated that the Appellant's TM assistance based on the Appellant's failure to comply with the Periodic Review requirements. Policy is specific that the Worker must notify the

individual of the consequences when the review requirements are not met. Both the Worker and Supervisor must make a good cause determination based on reasonable expectations when the review is not returned timely. During the hearing, the Respondent failed to provide testimony that a good cause consultation between the Worker and Supervisor was completed to determine whether the Appellant had good cause for failure to complete the Periodic Review requirements. Because such consultation and determination were not completed prior to the termination decision, the Department's action to terminate TM assistance cannot be affirmed.

CONCLUSIONS OF LAW

1) Transitional Medicaid (TM) coverage consists of families losing Parent and Caretaker Relative Medicaid because of earned income.

2) TM coverage consists of two phases.

3) The TM recipient is required to report, through Periodic Review Letters, the assistance groups gross earnings and day cost to maintain TM coverage.

4) Policy requires that failure to complete the Periodic Review Letter, without good cause, automatically renders the assistance group ineligible to continue receiving TM assistance.

5) Policy requires the Worker and Supervisor make the good cause determination for failure to complete the Periodic Review letter based on reasonable expectations.

6) The Appellant was required to complete a Periodic Review Letter prior to June 17, 2024 and failed to complete the necessary documentation.

7) The Respondent did not complete a good cause determination based on the Appellant's failure to complete the necessary documentation.

8) The Respondent's decision to terminate the Appellant's TM assistance cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's Transitional Medicaid assistance.

ENTERED this _____ day of September 2024.

_____

Eric L. Phillips
State Hearing Officer