

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 19, 2005 for Ms. _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was originally scheduled on November 12, 2004 on a timely appeal, filed November 1, 2004. The hearing was rescheduled after Mrs. _____ stated she had legal representation. The hearing finally convened on January 14, 2005.

It should be noted here that Ms. _____ is currently receiving Nursing Home Care Benefits.

II. PROGRAM PURPOSE:

The Program entitled SSI-RELATED MEDICAID is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Nursing Home Care is a medical service which is covered by the State's Medicaid Program. Payment for care is made to nursing homes which meet Title XIX (Medicaid) standards for the care provided to eligible recipients. In order to qualify for Nursing Home Care, an individual must meet financial and medical eligibility criteria.

III. PARTICIPANTS:

_____, Daughter/Power of Attorney

_____, Spouse

Joann Bragg, Economic Services Worker – Fayette District DHHR Office

Presiding over the hearing was Ray B. Woods, Jr., M.L.S., State Hearing Officer and, a Member of the State Board of Review

IV. QUESTIONS TO BE DECIDED:

Did Ms. _____ have excessive assets in August 2004 for the SSI-Related Medicaid Program?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 11.2 (A) (1) ESTABLISHING DATE OF ASSET ELIGIBILITY – SSI-Related Medicaid, CDCS, PAC, QDWI, SLIMB and QI-1 and; 11.3 *MAXIMUM ALLOWABLE ASSETS – SSI-RELATED MEDICAID.*

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department' Exhibits:

- D-1 Hearing Summary
- D-2 WVIMM Chapter 11.2 *ESTABLISHING DATE OF ASSET ELIGIBILITY*
- D-3 West Virginia Income Maintenance Manual Chapter 11.3 *MAXIMUM ALLOWABLE ASSETS – SSI-RELATED MEDICAID*
- D-4 Notice of Decision dated 08/17/04 – Denial Letter
- D-5 Notice of Decision dated 10/15/04 – Denial Letter
- D-6 Stock Values
- D-7 Dividend Statements
- D-8 Letter from _____ of _____
- D-9 _____ Account Statement July 31 – August 27, 2004
- D-10 Fax dated 11/18/04 with attached letter from attorney
- D-11 Scheduling Notice dated 11/19/04 (Rescheduled Notice)
- D-12 GroupWise Message from Ms. Bragg to State Hearing Office re: faxing Attorney Letter
- D-13 Scheduling Notice dated 11/01/04 (Initial Notice)
- D-14 Request fro Hearing dated 10/19/04

VII. FINDINGS OF FACT:

1) This matter was continued from November 12, 2004 when Mrs. _____ stated she had conferred with an attorney. The State Hearing Officer requested a letter from the attorney if he were not going to provide legal representation. This would protect Mrs. _____'s due process rights. A copy of the letter was received from the attorney on November 18, 2004. He stated he would not be representing Mrs. _____ in this particular matter.

2) Mrs. _____, as Power of Attorney for Ms. _____, inquired about Long Term Care in March 2004. Mrs. _____ opened an account with _____, Investment Representative with Edward Jones, on March 31, 2004. The account consolidated the joint stock holdings of her mother, _____, and _____, her brother. Ms. Bragg requested verification of the transfer. The requested information was never received.

- 3) On July 9, 2004, Mrs. _____ made an application for SSI-Related Medicaid for Long Term Care. Ms. _____ owned stock in _____ Corp, _____ Technologies, _____ Communications, _____ Communications and, _____ Corp. The value of the stock exceeded the Medicaid guidelines for assets. The July application was denied.
- 4) Mrs. _____ contacted Mr. _____ because the assets had not been consolidated. Mr. _____ sent Ms. Bragg a letter stating the stock was moved on August 9, 2004.
- 5) On August 24, 2004 an application was again taken for Long Term Care. The stock was still in the name of _____ on August 1, 2004. The Long Term Care Application was denied for August 2004, due to excessive assets as of the first of the month.
- 6) Ms. _____ had excessive assets in July and August 2004 because, the Investment Representative failed to consolidate the accounts in March 2004.

VIII. CONCLUSIONS OF LAW:

1) **West Virginia Income Maintenance Manual Chapters 11.2 (A) (1)**
ESTABLISHING DATE OF ASSET ELIGIBILITY – SSI-Related Medicaid, CDCS, PAC, QDWI, SLIMB and QI-1:

The asset eligibility determination for these applications must be made as of the first moment of the month of application. The client is not eligible for any month in which assets are in excess of the maximum, as of the first moment of the month. Increases in countable assets during one month do not affect eligibility unless retained into the first moment of the following month.

EXAMPLE: A client applies for SSI-Related Medicaid on April 21st. On April 1st, he had a savings account of \$1,500 and two automobiles: a 1985 Ford LTD that he used for obtaining medical treatment and a 1982 Chevrolet Impala valued at \$575. He advises the Worker that, on April 10th, he withdrew \$125 from his savings account to pay for automobile repairs. His total assets on April 1st were \$2,075. Even though his assets decreased to \$1,950, which is under the \$2,000 asset maximum, on April 10th, his assets as of the first moment of the month were in excess of the asset limit, and he is not eligible.

Conversely, if the client's assets, as of the first moment of the month, are within the asset limit, and during the month his assets increase to above the asset limit, he is still eligible for that month.

2) **West Virginia Income Maintenance Manual Chapters 1.3 MAXIMUM ALLOWABLE ASSETS – SSI-RELATED MEDICAID:** The maximum allowable asset level for a one member Assistance Group (AG) is \$2,000.00.

IX. DECISION:

It is the decision of this State Hearing Officer to UPHOLD the action of the Department in this particular matter.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29