



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 29, 2007

_____ for _____

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 24, 2007. Your hearing request was based on the Department of Health and Human Resources' denial of Long-Term Care Medicaid for your mother.

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 Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Medicaid Long-Term Care Program is based on current policy and regulations. Some of these regulations state as follows: The asset limit for Medicaid for a one-person Assistance Group is \$2,000. (West Virginia Income Maintenance Manual Chapter 11.3)

Information presented during your hearing revealed that your mother's assets exceeded the allowable amount when you applied for Long-Term Medicaid on May 31, 2007.

It is the decision of the State Hearing Officer to **uphold** the Department's denial of Long-Term Care Medicaid.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lisa Tanner, ESW, DHHR
[REDACTED] Esq., Attorney for Claimant

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____ for _____,

Claimant,

v.

Action Number: 07-BOR-1683

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on August 29, 2007 for _____. 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 convened on August 24, 2007 on a timely appeal filed July 5, 2007.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The program entitled Long-Term Care is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Long-Term 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:

_____, son of Claimant
_____, grandson of Claimant
_____, granddaughter of Claimant
[REDACTED] Esq., Attorney for Claimant
Lisa Tanner, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Agency was correct in its denial of the Claimant's Long-Term Care Medicaid application.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 1.2M and 11.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Notice of Decision dated June 1, 2007
D-2 Application form dated May 31, 2007
D-3 West Virginia Income Maintenance Manual Chapter 1.2M
D-4 West Virginia Income Maintenance Manual Chapter 11.3

Claimant's Exhibits

C-1 Account statements from [REDACTED] National Bank
C-2 U.S. Individual Income Tax Returns
C-3 Pay stubs for _____

VII. FINDINGS OF FACT:

- 1) The Claimant's son applied for her Long-Term Care Medicaid benefits in an application dated May 31, 2007 (D-2). The application shows countable liquid assets totaling \$53,000.
- 2) The Economic Service Worker testified that the application was denied because the Claimant's assets exceeded the limit of \$2,000.

- 3) The Department sent the Claimant a Notice of Decision (D-1) which states, in part:

ACTION: Your 5/31/07 application for Nursing Home Care Coverage has been DENIED.

REASON: Your application has been denied. If you want to receive benefits in the future you must reapply.

- 4) The Claimant's son testified that his mother had resided in his home since around 1972. She is now nearly 89 years old and has resided for the past two months at Pineview Nursing Home.

The Claimant's son provided bank statements (C-1) for the past several years for the money market (interest-bearing checking) account owned jointly by him and his mother. The [REDACTED] Bank statement for the period ending May 16, 2007 lists a balance of \$58,551.30. The son reported that he has since transferred \$50,000 out of the account, leaving around \$8,000 in the account as his mother's share of the funds. His mother's \$8,000 share has now been considerably depleted due to her nursing home expenses.

The Claimant's son testified that his mother's only source of income has been Social Security, which she began receiving following the death of his father in the 1950s. Her Social Security payment has increased throughout the years from \$74 to \$424 monthly. The Claimant's son testified that he has provided 99 percent of his mother's care throughout the years and presented personal income tax returns (C-2) dating back to 1977, which list the Claimant as his dependent.

The son testified that the Claimant's monthly medication and health-related expenses total more than half of her monthly income. He contended that most of the \$58,551 in the account was actually his life savings as his mother could not have accrued more than \$8,000 throughout the years due to her limited income. The son verified via income tax forms (C-2) that he and his wife earned \$55,965 in 2006 and also provided verification of their income for the past several years. The Claimant's son, grandson and granddaughter testified that the Claimant's Social Security check was cashed the majority of the time and the money was brought back to her to spend as she desired. A small amount of the Claimant's money was deposited into the bank account anywhere from two to four times per year.

The son testified that he and his mother have maintained the joint bank account for as long as he can remember.

- 5) West Virginia Income Maintenance Manual Section 11.3 (D-4) states that the asset level for Medicaid for a one-person Assistance Group is \$2,000.
- 6) West Virginia Income Maintenance Manual Section 1.2M (D-3) states that an application is denied when at least one eligibility requirement is not met or when the client fails to establish eligibility.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's Long-Term Care Medicaid application of May 31, 2007 lists liquid assets of more than \$50,000, although the Claimant's son maintains that only \$8,000 of the funds in the bank account actually belonged to the Claimant.
- 2) Policy states that the asset limit for Medicaid for a one-person Assistance Group is \$2,000. While West Virginia Income Maintenance Manual Section 11.5C, 3e, contains some provisions for rebuttal when a client denies ownership of assets, that issue will not be addressed in this decision as the Claimant had at least \$8,000 in undisputed assets at the time of the Long-Term Care application in May 2007.
- 3) Because the Claimant's total undisputed assets exceeded \$2,000 at the time of application, the Department acted correctly in denying Long-Term Care benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Agency's action in denying the Claimant's Long-Term Care Medicaid application.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of August, 2007

**Pamela L. Hinzman
State Hearing Officer**