



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

January 24, 2012

-----for -----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 22, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny Long Term Care Medicaid for ----- due to excessive assets.

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 Long Term Care Medicaid is based on current policy and regulations. These regulations provide that an individual must be asset eligible the first moment of the month of application to qualify for Long Term Care Medicaid (WV Income Maintenance Manual § 11.2 A).

The information submitted at your hearing revealed that -----'s assets exceeded the allowable limit for her to receive Long Term Care Medicaid.

It is the decision of the State Hearing Officer to **Uphold** the action of the Department to deny ----- Long Term Care Medicaid.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Joann Bragg, Economic Service Worker

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

IN RE: -----,

Claimant

v.

ACTION NO.: 11-BOR-2450

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondents

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 22, 2011 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 a timely appeal, filed November 21, 2011.

II. PROGRAM PURPOSE:

The program entitled Long Term Care Medicaid (nursing facility services) 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:

-----, Claimant's Attorney in Fact

Fred Burns, Economic Service Supervisor
Joann Bragg, Economic Service Worker

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's decision to deny Long Term Care Medicaid was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 11.2 A and 11.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification Letter dated October 24, 2011
- D-2 Verification Checklist dated September 8, 2011 and Bank Statement dated October 5, 2011
- D-3 WV Income Maintenance Manual § 11.3 and 11.4 C
- D-4 Bank Statement dated September 7, 2011 and Personal Account Statement

VII. FINDINGS OF FACT:

- 1) Claimant's granddaughter and attorney in fact, -----, applied for Long Term Care (LTC) Medicaid on Claimant's behalf on September 8, 2011. A notification letter dated October 24, 2011 was issued by the Department which reads in pertinent part (D-1):

Your 9/08/11 application for Medicaid has been DENIED. The amount of assets is more than is allowed for this benefit.

- 2) Joann Bragg, Claimant's caseworker, testified that Claimant's assets as of September 1, 2011 were a personal account balance with the nursing facility of \$131.92 and a checking account balance of \$2236.03 (D-4). Claimant's total countable assets were \$2367.95 for September 2011.

Ms. Bragg stated the asset limit for LTC Medicaid is \$2000. LTC Medicaid was denied for September 2011 due to excessive assets. Ms. Bragg noted that LTC Medicaid was approved for Claimant effective October 2011 and ongoing as her assets had been spent below the \$2000 maximum.

- 3) -----testified that her grandmother owes the nursing facility over \$11000 for September 2011 when Claimant did not have Medicaid. -----stated she is

paying the facility \$600 a month on the balance, but the nursing facility has started discharge proceedings against Claimant unless the balance is paid.

-----stated Claimant needs the care provided her in the nursing facility. -----
stated she understood why Claimant was denied LTC Medicaid, but Claimant will be
discharged from the nursing home because of only being \$300 over the asset limit.

4) WV Income Maintenance Manual § 11.2 A(1) states:

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 countable 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.

5) WV Income Maintenance Manual § 11.3 states:

Asset Limit for SSI-Related Medicaid Groups: \$2000

6) WV Income Maintenance Manual § 17.9 D(1)e(3) states:

The following expenses cannot be used as a deduction for non-reimbursable medical.

- Nursing facility expenses incurred during a period of Medicaid ineligibility for excess assets, when the reason for excess assets is non-payment of the client contribution

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that an individual must be asset eligible as of the first day of the month of application in order to qualify for Medicaid for the entire month.
- 2) Claimant's countable assets exceeded the \$2000 asset limit as of September 1, 2011. Claimant was not eligible to receive Long Term Care Medicaid for September 2011.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny 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 24th day of January 2011.

Kristi Logan
State Hearing Officer