



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 1247  
Martinsburg, WV 25402

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

June 16, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2063

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 Official 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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Lori Woodward  
State Hearing Official  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Angela Jennings, WV DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-2063**

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

**Respondent.**

**DECISION OF STATE HEARING OFFICIAL**

**INTRODUCTION**

This is the decision of the State Hearing Official resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on June 10, 2015, on a timely appeal filed May 12, 2015.

The matter before the Hearing Official arises from the May 6, 2015 proposal of the Respondent to deny financial eligibility for Long Term Care (LTC) Medicaid.

At the hearing the Respondent appeared by Angela Jennings. The Appellant appeared *pro se*. As witness for the Appellant appeared her Medical Power of Attorney, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual, §17.25 (excerpt)
- D-2 West Virginia Income Maintenance Manual, §11.3
- D-3 West Virginia Income Maintenance Manual, §11.4
- D-4 Assets Summary screen print from Appellant's eRAPIDS case
- D-5 Demand Deposit screen print from Appellant's eRAPIDS case
- D-6 ██████████ of West Virginia bank statement, dated April 24, 2015
- D-7 Life Insurance Policy statement, dated April 1, 2015
- D-8 Letter from ██████████, dated April 30, 2015
- D-9 Assets Determination Summary screen print from Appellant's eRAPIDS case

**Appellant's Exhibits:**

- A-1 ██████████ Secured Note, dated April 4, 2014

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 Official sets forth the following Findings of Fact.

### **FINDINGS OF FACT**

1. On May 6, 2015, the Respondent notified the Appellant that her LTC Medicaid (Home & Community Based Waiver) application was denied based on being over the allowable asset limit of \$2000.
2. In addition to liquid assets and burial assets, the Appellant owns a life insurance policy with a cash value of \$69,389.00. (Exhibits D-4, D-7 & D-9)

### **APPLICABLE POLICY**

WV Income Maintenance Manual (IMM) §17.25 instructs that for Home & Community Based Waiver (HCB) program benefits, the determination of countable assets is the same as for SSI-Related Medicaid. The SSI-Related Medicaid asset limit for one person is used.

IMM §11.3 explains that the asset limit for SSI-Related Medicaid for an Assistance Group (AG) of 1 is \$2000.

IMM §11.4.Z, LIFE INSURANCE (Cash Surrender Value), SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1, states that if the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of \$1,500, the cash surrender values are counted as an asset.

### **DISCUSSION**

The Appellant appealed the Respondent's decision to deny her financial eligibility for LTC Medicaid based on being over assets for the program. The Appellant does not dispute that she owns a life insurance policy with a cash value of \$69,389.00. However, she proffers that she took out a loan to pay off other loans she had taken against her life insurance policy in the past; therefore, she reasons she should be given a reduction in the amount of her monthly payments.

The evidence showed that the Appellant entered into a Consumer Real Estate Secured Note on April 4, 2014, using a non-homestead property as collateral ( [REDACTED] ) to "payoff loan with [REDACTED]". (Exhibit A-1) Of note, this property is not listed on the Appellant's Assets Determination Summary, Exhibit D-9. However, for purposes of this hearing, it is not at issue. The principal amount of the loan is \$41,500. She executed this instrument as the sole borrower. Even if policy would allow for the deduction of the amount of the

loan, which it does not, the Appellant would remain over the asset limit. The Appellant is over the asset limit by \$68,579.52, and as such, the Department correctly denied her LTC Medicaid application.

### **CONCLUSION OF LAW**

Because the Appellant was over the asset limit allowed by policy for LTC Medicaid eligibility, the Respondent must deny the Appellant's application.

### **DECISION**

The decision of the Respondent to deny the Appellant's application for LTC Medicaid is **upheld**.

**ENTERED this 16<sup>th</sup> day of June 2015.**

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**Lori Woodward, State Hearing Official**