



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 2504

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

July 24, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2087

Dear Ms. [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 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Sean Hamilton, Department Representative

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

██████████,

Appellant,

v.

Action Number: 15-BOR-2087

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

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer 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 July 14, 2015, on an appeal filed May 3, 2015.

The matter before the Hearing Officer arises from the April 28, 2015 decision by the Respondent to deny Long Term Care (LTC) Medicaid due to excessive assets.

At the hearing, the Respondent appeared by Sean Hamilton. The Appellant was represented by ██████████ and ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of decision, dated April 28, 2015
- D-2 Appellant's bank statement (copy), dated March 31, 2015
- D-3 Preneed Funeral Contract (copy) from ██████████, dated April 3, 2015
- D-4 Check from Appellant (copy), dated April 3, 2015
- D-5 Excerpt from the West Virginia Income Maintenance Manual (WVIMM), Chapter 11.2

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 applied for LTC Medicaid.
- 2) The Respondent issued notification to the Appellant on April 28, 2015, indicating that her application for LTC Medicaid was denied for the month of April 2015 due to excessive assets for the program. (Exhibit D-1)
- 3) The Appellant had \$7,233.49 in a bank account as of March 31, 2015. (Exhibit D-2)
- 4) The Appellant purchased a pre-need funeral contract for \$7,232.87 on April 3, 2015. (Exhibits D-3 and D-4)

APPLICABLE POLICY

WVIMM, Chapter 17.10, reads “The asset level for those eligible by having income equal to or less than 300% of the monthly SSI payment for an individual is the same as for an SSI-Related Medicaid eligible.”

WVIMM, Chapter 11.3, shows the SSI-Related Medicaid asset limit for a one-person assistance group as \$2,000.

WVIMM, Chapter 11.4, C, shows that bank accounts and certificates of deposits are counted as assets for “SSI Groups.”

WVIMM, Chapter 11.2, A, establishes the date of asset eligibility for SSI-Related Medicaid as “...the first moment of the month of application.”

DISCUSSION

The Respondent denied a LTC Medicaid application based on excessive assets. The Appellant had assets in excess of the applicable asset limit (\$2,000) until a pre-need funeral contract was purchased on April 3, 2015. As of the ‘first moment’ of the month of April 2015, the Appellant was over the asset limit for the program.

The Appellant described factors that prevented the disposal of assets prior to the beginning of April 2015. Information provided by the Appellant’s nursing home and the timing of a Medicare letter may have prevented the Appellant from making the financial arrangements necessary to meet asset eligibility at the beginning of April 2015, but LTC Medicaid policy does not provide exceptions for those factors. The Board of Review is bound by policy in its decisions.

The Respondent was correct to deny LTC Medicaid coverage for a period in which the Appellant had excessive assets for the program.

CONCLUSION OF LAW

Because the Appellant had excessive assets as of the ‘first moment’ of April 2015, the Respondent must deny LTC Medicaid for that month.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent’s decision to deny LTC Medicaid benefits to the Appellant for April 2015 based on excessive assets for the program.

ENTERED this ____ Day of July 2015.

**Todd Thornton
State Hearing Officer**