



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 5, 2006

___ by ___

Dear Ms. ___:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 1, 2006. Your hearing request was based on the WVDHHR's determination of the amount of patient resource to be paid to the Nursing Home.

In arriving at a decision, the State Hearings 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 program is based on current policy and regulations. Some of these regulations state as follows: gross pension amounts are counted in determining the patient resource (WV Income Maintenance Manual Section 10.3 AAA).

The information which was submitted at your hearing revealed that the correct patient resource amount is \$1,861.86 due to use of the gross amount of pension.

It is the decision of the State Hearings Officer to uphold the action of the Department to determine a patient resource amount of \$1,861.86.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Deborah Fidler, Department Hearing Rep.

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

—,

Claimant,

v.

Action Number: 06-BOR-1832

Department of Health & 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 June 1, 2006 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 June 1, 2006 on timely appeals filed May 8, 2006.

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.

It 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:

1. _____, Claimant's daughter & representative.
2. Deborah Fidler, Department Hearing Representative.

Presiding at the Hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department took the correct action to determine a patient resource amount of \$1861.86 due to using the gross amount of pension.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Sections 10.1, 10.3, 17.2, & 17.47.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Respondent's Exhibits:

- DHR-1 Copy of approval letter dated 5-5-06 (3 pages).
- DHR-2 Copy of WV Income Maintenance Manual Section 17.2 (5 pages).
- DHR-3 Copy of WV Income Maintenance Manual Section 17.47 (2 pages).
- DHR-4 Copy of hearing request received 5-10-06.
- DHR-5 Copy of IG-BR-29.
- DHR-6 Copy of hearing appointment letter (2 pages).
- DHR-7 Copy of WV Income Maintenance Manual Section 10.1 (7 pages).
- DHR-8 Copy of WV Income Maintenance Manual Section 10.3 (6 pages).
- DHR-9 Copy of letter from [REDACTED] 5-3-06.
- DHR-10 Copy of patient liability printout.

Claimant's Exhibits:

- CL-1 Copy of [REDACTED] statement 5-18-06.

VII. FINDINGS OF FACT:

- 1) The claimant was approved for Medicaid Nursing Home benefits on 5-5-06 based on pension income from [REDACTED] of \$513 and Social Security benefits of \$1409 (plus \$88.50 Medicare Premium) for a total of \$2010.50.
- 2) After deductions for the Personal Allowance of \$50 and the Medicare Premium of \$88.50, the claimant was determined to have a patient resource of \$1872 and a notification letter was issued on 5-5-06 (Exhibit #DHR-1).
- 3) An additional deduction for Health Insurance (Medicare Part D) of \$10.14 was taken off the patient resource amount, leaving a total of \$1861.86 (Exhibit #DHR-10).
- 4) Ms. Fiddler testified that the gross amount of the [REDACTED] pension must be used (\$513) rather than the net amount of \$433.78 (Exhibit #DHR-9).

5) Ms. ____ testified that the Social Security and pension do not cover the nursing home bill and that the federal withholding of \$79.22 taken from the pension should be deducted which would reduce the resource amount.

6) WV Income Maintenance Manual Section 10.3 states, in part:

“CHART OF INCOME SOURCES

The following chart lists sources of income. The list is not all inclusive, so all other payments from any source must be evaluated....

The chart indicates if the source of income is counted and, if so, indicates if the income is earned, self-employment or unearned.

SOURCE OF INCOME	PAC, QMB, SLIMB, QI-1, QI-2, QDWI, CDCS, AIDS PROGRAMS, SSI-RELATED MEDICAID
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AAA. Pensions	Unearned. Count gross.”
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7) The area of dispute involves whether to use the gross or net income amount of the Prudential Financial pension. The State Hearing Officer finds that the gross amount must be used in determining the patient resource amount.

VIII. CONCLUSIONS OF LAW:

Regulations in WV Income Maintenance Manual Section 10.3 AAA require that the gross unearned income amount be used in determining the countable income of the SSI-related Medicaid applicant. In this case, the gross amount of the [REDACTED] pension was \$513 and the Department properly determined that the gross amount must be used in determining the patient resource amount.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to determine a patient resource amount of \$1861.86.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of June, 2006.

**Thomas M. Smith
State Hearing Officer**