



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 14, 2006

Dear Mr. & Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 15, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the SSI-Related Medicaid Program.

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 SSI-Related Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: To be eligible for programs administered by the Office of Family Support (OFS), the total amount of countable assets cannot exceed certain amounts. For an SSI-Related AG of 2 the asset maximum is \$3,000.(Section 11.3 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that at the time of application, you had excessive assets.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny your application for the SSI-Related Medicaid Program.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Beverly McKinney, DHHR

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

_____,

Claimants,

v.

Action Number: 05-BOR-6650

**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 November 15, 2005 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 November 15, 2005 on a timely appeal, filed, September 7, 2005.

It should be noted here that the claimant' benefits have been denied.

II. PROGRAM PURPOSE:

The Program entitled SSI-Related Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

SSI Related Medicaid is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as either aged, disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

_____, Claimants
Beverly McKinney, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, 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 or not the claimants meet the financial eligibility requirements for the SSI-Related Medicaid Program.

V. APPLICABLE POLICY:

Sections 11.2A #1, 11.3 and 11.4 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Appointment Notice
- D-2 Form IG-BR-29 Hearing/Grievance Record Information
- D-3 Hearing Request received 09/07/05
- D-4 Notification Letter dated 09/01/05
- D-5 Sections 11.3 and 11.4 of the West Virginia Income Maintenance Manual
- D-6 Asset Eligibility Determination and Asset Verifications
- D-7 Department's Summary

VII. FINDINGS OF FACT:

- 1) The claimants applied for spenddown Medicaid based on disability on 08/22/05.
- 2) The claimants verified bank account assets of \$3,366.64 (Checking accounts in the amounts of \$405.76 and \$1,710.64 and savings account of \$1250.24) and life insurance cash surrender values of \$2,956.15. In addition to these assets, they also had vehicle assets. (D-6)
- 3) A letter was sent to the claimants dated 09/01/05 informing them of the following: Your 08/22/05 application for SSI Related Medicaid for the Aged, Blind and Disabled has been denied. Reason: The amount of assets is more than is allowed for this benefit. (D-4) A hearing was requested on this issue. (D-3)
- 4) Testimony from Mr. _____ revealed he had some changes made in his life insurance policies and took money out of the savings account to pay some medical bills. He has \$653.07 left in the bank. He was told to turn the life insurance over to whoever was going to take care of the burial and he did. He disagreed with the value of the Buick Park Avenue.
- 5) Section 11.3 of the West Virginia Income Maintenance Manual reads in part:

To be eligible for programs administered by the Office of Family Support (OFS), the

total amount of countable assets cannot exceed certain amounts. For an SSI-Related AG of 2 the asset maximum is \$3,000.

- 6) Section 11.2A #1 of the West Virginia Income Maintenance Manual reads in part:

The asset eligibility determination for SSI-Related Medicaid applications must be made as of the first moment of the month of application. The client is not eligible for any month in which 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. Conversely, if the client's assets, as of the first moment of the month, are within the asset limit, and during the month his assets increase to above the asset limit, he is still eligible for that month.

- 7) Section 11.4 of the West Virginia Income Maintenance Manual reads in part:

Bank accounts and CD's are considered assets for the SSI-Related Medicaid Program.

For SSI-Related Medicaid, 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear that the asset maximum for a 2 person AG is \$3,000. The asset eligibility determination for SSI-Related Medicaid applications must be made as of the first moment of the month of application.
- 2) The claimants applied for SSI-Related Medicaid 08/22/05. The cash surrender value of their life insurance was \$2,956.15. The amount in a savings account was \$1,250.24. In addition, there were additional assets in two checking accounts.
- 3) The claimants' countable assets in August exceeded \$3,000.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to deny the claimants application for the SSI-Related Medicaid Program because of excessive assets.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 14th Day of February, 2006.

**Margaret M. Mann
State Hearing Officer**