



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Office of Inspector General

Board of Review

235 Barrett Street

Grafton WV 2354

February 21, 2006

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 7, 2006. Your hearing request was based on the Department of Health and Human Resources' action to apply a spenddown in determining your Medicaid eligibility.

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 Medicaid program is determined based on current regulations. One of these regulations specifies that individuals who otherwise meet eligibility requirements but who have income in excess of the established standard will be ineligible for medical coverage unless this excess is insufficient to meet their medical needs. These individuals are required to spenddown this excess amount in order to qualify for coverage. For Medicaid purposes a 6 month period is utilized to project countable income. (WV Income Maintenance Manual § 10.22 & 16.6)

The information which was submitted at the hearing revealed that you no longer receive SSI benefits and your monthly countable income exceeds the current standard for Medicaid (Medically Needy Income Level), resulting in a spenddown.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to terminate your medical coverage under the Medicaid *for Recipients of SSI* Program and apply a spenddown in determining your current Medicaid eligibility.

Sincerely,

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
[REDACTED] County DHHR, Stacy North

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

Claimant.

v.

Action Number 05-BOR-7222

**West Virginia Department of Health & Human Resources.
Respondent.**

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on February 21, 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 February 7, 2006 on a timely appeal filed December 21, 2005.

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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:

_____, claimant

Stacy North, FSS, Agency Representative.

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in proposing to terminate Medicaid benefits under the Medicaid for Recipients of SSI Program and applying a spenddown in determining the claimant's Medicaid eligibility?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §10.22 & §16.6.
42 CFR § 435.601 & 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Agency's Exhibits:

A-1 WVIMM 16.6

A-2 Notification, 12/8/05

Claimant's Exhibits:

C-1 Pharmacy expenses, household expenses and physician visits.

VII. FINDINGS OF FACT:

1) The claimant was informed in a notification dated December 8, 2005 (A-2) that his Medicaid for Recipients of SSI case was being terminated based on him no longer receiving SSI benefits. The claimant requested a hearing December 21, 2005. Benefits have been continued pending a hearing decision. This hearing was scheduled for February 1 and postponed at the claimant's request and held February 7, 2006.

2) During the hearing Exhibits as noted in Section VI above were submitted.

3) Testimony was heard from the individuals listed in Section III above. All persons giving testimony were placed under oath.

4) There is no dispute as to the facts of this case. The claimant began receiving Social Security Disability benefits in November 2005 of \$1132 per month. They are currently \$1179. He began receiving SSI about May 2005 and received his last SSI benefit in October 2005.

5) West Virginia Income Maintenance Manual § 16.6, A, states in part: West Virginia elected to (medically) cover all SSI recipients and to accept Social Security's determination of eligibility for SSI as the sole eligibility determination for Medicaid.

6) West Virginia Income Maintenance Manual § 16.4 states in Part: All Medicaid coverage groups are assigned to one of two broad sections: Categorically Needy and Medically Needy.

CATEGORICALLY NEEDY MEDICAID recipients are those who- Receive SSI payments. § 16.6 notes: No Categorically Needy coverage group is subject to a spenddown provision. MEDICALLY NEEDY MEDICAID recipients are those who would be eligible for SSI except that their income and/or assets are too high. However, even though their resources are too high for Medicaid eligibility, they cannot afford to pay their medical bills. These people are allowed to spenddown their excess income to the Medically Needy Income Level (MNIL) by incurring medical expenses.

7) West Virginia Income Maintenance Manual § 10.21 & 10.22 (D) (11) states in part: To receive a medical card, the monthly countable income of the (Medically Needy) needs group must not exceed the amount of the MNIL (Medically Needy Income Level). If the income of the needs group exceeds the MNIL, the client has an opportunity to spend his income down to the MNIL by incurring medical expenses.

VIII. CONCLUSIONS OF LAW:

1) Medicaid coverage identified as Categorically Needy coverage is provided by the state agency to individuals receiving Supplemental Security Income (SSI) benefits. No financial test or spenddown provision is applied as eligibility is based solely on receipt of SSI. The claimant received Medicaid coverage under this program (for recipients of SSI) during the period May through October 2005.

2) Medicaid coverage under the aforementioned program is terminated upon a determination of SSI ineligibility by the Social Security Administration. The claimant's SSI benefits were stopped in October 2005 as he was awarded Social Security Disability benefits

3) For individuals qualifying as Medically Needy, policy directs that if an individual's countable income exceeds a standardized income level then a spenddown must be met prior to the individual becoming eligible for Medicaid coverage. The claimant's monthly income is currently \$1179. The Medically Needy Income Level in this case is \$200 for 1 person or \$225 for 2 persons- depending on the sources of household income. The claimant's income clearly exceeds the Medically Needy Income Level therefore a spenddown results.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency to apply a spenddown when determining the claimant's Medicaid eligibility. The claimant's current spenddown must be recalculated by the agency as he stated during the hearing that his wife's employment had recently changed.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 21st Day of February, 2006.

Ron Anglin
State Hearing Examiner

CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION
For
Public Assistance Hearings,
Administrative Disqualification Hearings, and
Child Support Enforcement Hearings

A. CIRCUIT COURT

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme court of Appeals of the State of West Virginia.

B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

C. THE UNITED STATE DEPARTMENT OF AGRICULTURE

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.