



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
200 Davis Street
Princeton, WV 24740

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 27, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 3, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your SSI-Related Medicaid benefits for the month of August 2006.

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 regulations. One of these regulations states that the asset eligibility determination for SSI-Related Medicaid must be made as of the first moment of the month of application. The individual is not eligible for any month in which assets are in excess of the maximum, as of the first moment of the month. (WV Income Maintenance Manual Section 11.2,A.1.) Also, the regulations state that for SSI-Related Medicaid the maximum allowable assets for a household assistance group of one is \$2000.00. (WV Income Maintenance Manual Section 11.3)

The information submitted at your hearing revealed that you had countable assets in the amount of \$2946.14 at the time of application on August 10, 2006.

It is the decision of the State Hearings Officer to **uphold** the Department's action to deny your SSI-Related Medicaid benefits for the month of August 2006.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Murriel Hylton, [REDACTED] DHHR
Beverly McKinney, [REDACTED] DHHR

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

_____ ,

Claimant,

v.

Action Number: 06-BOR-2993

**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 3, 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 November 3, 2006 on a timely appeal filed August 29, 2006.

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
Murriel Hylton, [REDACTED] DHHR
Beverly McKinney, [REDACTED] DHHR

Presiding at the Hearing was Cheryl McKinney, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question(s) to be decided is whether the agency was correct in its decision to deny Claimant's SSI-Related Medicaid benefits for the month of August 2006.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 11.2, A.1.
West Virginia Income Maintenance Manual Section 11.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of IG-BR-29
- D-2 Copy of DFA-FH-1 Hearing Request dated 8-27-06
- D-3 Copy of Notification letter dated 8-18-06 (5 pages)
- D-4 Copy of WV Income Maintenance Manual Section 11.3
- D-5 Department's Summary
- D-6 Copy of WV Income Maintenance Manual Section 11.2 (3 pages)
- D-7 Copy of [REDACTED] Life Insurance information dated 10-31-98
- D-8 Copy of Irrevocable Trust from _____ Funeral Services signed 8-17-06

Claimant's Exhibits

None

VII. FINDINGS OF FACT:

- 1) The Claimant applied for SSI-Related Medical coverage on August 10, 2006 while a patient in [REDACTED] Hospital. At that time she was diagnosed with a malignant tumor behind her eye. She had no income and was sharing a mobile home with her brother. She reported she had a life insurance policy with [REDACTED] and the medical application was pended for proof of the cash-in value of this policy. She also reported liquid assets of \$61.32. (D-5)
- 2) The Department received verification of the cash-in value of the life insurance policy in August 2006. The cash-in value of the life insurance was listed as \$2884.82 as of October 31, 1998. The Department also received verification that the Claimant signed an irrevocable burial trust with _____ Funeral home and assigned the [REDACTED] Life Insurance policy to them on August 17, 2006. (D-5) (D-7) (D-8)
- 3) The Department sent the Claimant a denial letter on August 18, 2006 informing her that she was not eligible for SSI-Medical coverage during the month of August 2006 due to her total countable assets being \$2946.14 which is over the asset level of \$2000.00. The Department approved SSI-Medicaid for her beginning September 2006. (D-3)

- 4) WV Income Maintenance Manual Section 11.3 states in pertinent part:

11.3 MAXIMUM ALLOWABLE ASSETS

To be eligible for programs administered by the Division of Family Assistance (DFA), the total amount of countable assets cannot exceed the amounts which are listed in the following chart:

SSI-RELATED MEDICAID, PAC, CDCS	MEDICAID,	AFDC-RELATED
Size of AG		Asset Level
1		\$2000
2		\$3000

- 5) WV Income Maintenance Manual Section 11.2, A.1 states in relevant part:

ESTABLISHING DATE OF ASSET ELIGIBILITY

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB and QI-1

The asset eligibility determination for these 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.

- 6) The Claimant testified that her memory is not good and she cannot focus her attention well. She stated she cannot stand or sit for long periods due to her back problems. She testified she did not know the life insurance money counted against her medical eligibility and after applying for medical benefits was advised to have funeral arrangements made and use the life insurance policy to pay for her irrevocable burial trust.

VIII. CONCLUSIONS OF LAW:

- 1) The Department processed Claimant's medical application of August 10, 2006 timely and found her to meet all eligibility requirements except the asset level. The Claimant's total countable assets at the time of application were \$2946.14.

- 2) The Claimant signed an irrevocable trust with _____ Funeral Services on August 17, 2006 and assigned all rights to the [REDACTED] Life Insurance Policy to the Funeral Home. Although this action on the part of the Claimant did affect her total countable assets for future eligibility by making the cash-in value of the Life Insurance Policy inaccessible, it did not change her asset eligibility for the month of August 2006.
- 3) Policy clearly states that the Department must count the assets the Claimant had on the date of application in determining countable assets for the month of application. The Department correctly denied claimant's SSI-Medicaid for the month of August 2006, due to her excessive assets of \$2946.14.

IX. DECISION:

It is the decision of the State Hearings Officer to **uphold** the Department's proposal to deny your SSI-Related Medicaid benefits for the month of August 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of November 2006.

**Cheryl McKinney
State Hearing Officer**