



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 22, 2006

Dear Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 20, 2006. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Qualified Medicare Beneficiary benefits.

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 Qualified Medicare Beneficiary (QMB) Program is based on current policy and regulations. Some of these regulations state as follows: Countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. To be eligible for QMB coverage, income must be less than or equal to 100 percent of the Federal Poverty Level for the Needs Group size. (WV Income Maintenance Manual Section 10.16)

Information submitted at your hearing revealed that your countable household income is excessive for the QMB Program based on the income limit for a couple.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your QMB benefits based on excessive income.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Stephanie Rizzio, ESS, DHHR

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

_____,

Claimant,

v.

Action Number: 06-BOR-3247

**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 22, 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 20, 2006 on a timely appeal filed October 19, 2006.

II. PROGRAM PURPOSE:

The Qualified Medicare Beneficiary Program is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Qualified Medicare Beneficiary (QMB), the Specified Low Income Medicare Beneficiary (SLIMB), and the Qualified Individuals (QI-1 and QI-2) Programs provide limited coverage under the Medicaid Program for eligible individuals or couples who are eligible for Medicare, Part A and who meet specified income tests. The QMB Program has a lower maximum income level and provides coverage of all Medicare co-insurance and deductibles as well as payment of the Medicare premium. SLIMB and QI-1 have higher maximum income levels and provide only for the payment of the Medicare Part B premium. The maximum income level for QI-2 is 175 percent of the Federal Poverty Level. This program pays for a portion of the Medicare premium.

III. PARTICIPANTS:

_____, Claimant
_____, husband of Claimant
Stephanie Rizzio, Economic Services Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 the Department was correct in its decision to terminate the Claimant's QMB benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 9.12, 10.3, 10.16, 10.22 and Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 QMB redetermination form
- D-2 Income information
- D-3 West Virginia Income Maintenance Manual Section 10.12
- D-4 Notice of Decision dated October 11, 2006
- D-5 West Virginia Income Maintenance Manual Section 10, Appendix A

Claimant's Exhibits:

- C-1 Letter from Dr. [REDACTED]

VII. FINDINGS OF FACT:

- 1) The Claimant's Qualified Medicare Beneficiary benefits, hereinafter QMB, was due for financial redetermination in October 2006. The Claimant completed the review form (D-1) and it was determined that income was excessive for the Claimant to remain eligible for QMB benefits. The Claimant was determined to be financially eligible for the Specified Low Income Medicare Beneficiary Program, which has a higher income limit.

- 2) The Department sent the Claimant a Notice of Decision (D-4) on October 11, 2006 which states, in pertinent part:

Action: Your Qualified Medicare Beneficiary Coverage will stop. You will not receive this benefit after October 2006.

Reason: Income is more than the net income limit for you to receive benefits. Your income has increased.

- 3) The Economic Services Supervisor testified that household income includes \$774 in Social Security for Mr. _____ and \$350 in Social Security for Mrs. _____, for a total of \$1,124 (D-2). The only income deduction for which the _____s qualify is a \$20 SSI disregard, so total countable income was \$1,104. The income limit for a two-person QMB Needs Group is \$1,100, according to West Virginia Income Maintenance Manual Section 10, Appendix A.
- 4) The _____s did not dispute the income information, but Mr. _____ testified that his wife is diabetic. He read a letter from Mrs. _____'s physician, Dr. _____ (C-1) which indicates that the Claimant needs physician oversight via office visits to control her condition. The letter states that the Claimant has also visited physicians for eye-related services and foot/ankle therapy related to her diabetes. Mr. _____ testified that he and his wife understand the Department's policy, but that they want to plead hardship.
- 5) West Virginia Income Maintenance Manual Section 10.16 (D-3) states that countable income for the QMB Program is determined by subtracting any allowable disregards and deductions from the total non-excluded income. Allowable disregards and deductions are the SSI disregards/deductions specified in Section 10.22, B. The total monthly countable income is then compared to the QMB income level for the appropriate number of persons.
- 6) WV Income Maintenance Manual Section 10.22, B, Unearned Income Disregards and Deductions:

- SSI \$20 Disregard: A \$20 Disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions. NOTE: The SSI \$20 disregard is not applied to any unearned income received which is based on need. This includes, but is not limited to, VA benefits based on need. See VA Benefits in Section 10.3.

- Unearned Income Diverted to a PASS: Any unearned income diverted to a PASS account is deducted from income.

- For SSI-Related Children Only: 1/3 of the child support intended for the SSI-Related child is disregarded.

- Death Benefits: The portion of a lump sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual, is deducted.

- 7) WV Income Maintenance Manual Section 9.12 states that the income limit for a couple is used when the Needs Group includes an eligible individual with an ineligible spouse and income is deemed.
- 8) WV Income Maintenance Manual Section 10, Appendix A states that the QMB income limit for a couple is \$1,100.
- 9) WV Income Maintenance Manual Section 10.3 TTT states that Social Security benefits are considered as unearned income for the QMB Program.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that countable income for the QMB Program is determined by subtracting any allowable disregards and deductions from the total non-excluded income. The income is then compared to the QMB income limit for the number of individuals in the Needs Group.
- 2) Policy specifies that Social Security benefits are counted as unearned income for QMB purposes and must be included in the income calculation.
- 3) The QMB income limit for a couple (\$1,100) must be used when income is deemed to an eligible individual from an ineligible spouse.
- 4) Total gross income for the Claimant and her husband totals \$1,124 and the only deduction for which the couple qualifies is the \$20 SSI Disregard. Therefore, total countable income is \$1,104.
- 5) Household income is excessive for the QMB Program based on the income limit for a couple so the Department acted correctly in terminating the Claimant's QMB benefits. While the Claimant's health problems undoubtedly require physician monitoring via office visits, policy specifies no hardship provisions for the QMB Program.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to terminate the Claimant's QMB benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of November 2006.

Pamela L. Hinzman
State Hearing Officer