



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph. D.
Cabinet Secretary

January 10, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 6, 2011. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Medicaid benefits provided through the Qualified Medicare Beneficiary (QMB) 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 Qualified Medicare Beneficiary (QMB) Program is based on current policy and regulations. Some of these regulations state that the worker must determine the amount of income that can be reasonably anticipated for the AG (assistance group). Income is projected and past income is used only when it reflects the income the client reasonably expects to receive. Countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. In order for a one (1) person AG to qualify, the AG's countable monthly income must be less than or equal to 100% FPL (\$903). (West Virginia Income Maintenance Manual, Chapter 10.6, 10.16, 10.22 and Chapter 10, Appendix A – effective 10/09)

The information submitted at your hearing reveals that your monthly countable income exceeds the maximum income allowed for participation in the QMB Program.

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate your Medicaid benefits through the Qualified Medicare Beneficiary Program based on excessive income.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Mary Shipley, ESW, DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-2318

**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 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 January 6, 2011 on an appeal filed November 22, 2010.

II. PROGRAM PURPOSE:

The Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare
Beneficiaries (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 QMBV 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% of the Federal Poverty Level. This program pays
for a portion of the Medicare premium.

III. PARTICIPANTS:

-----, Claimant

Mary Shipley, Economic Services Worker (ESW), DHHR

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its decision to terminate the Claimant's Medicaid (QMB) benefits based on excessive income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 10.6, 10.16, 10.22 & Chapter 10 Appendix A.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Hearing Summary
- D-2 Notice of Decision dated August 4, 2010
- D-3a Claimant's verified income before the August review
- D-3b Claimant verified income on August 3, 2010
- D-4a WVIMM Chapter 10, Appendix A
- D-4b WVIMM Chapter 10.16
- D-5 Claimant's Social Security Income (Verified via WV State Online Query)

VII. FINDINGS OF FACT:

- 1) On or about August 4, 2010, the Claimant was notified via a Notice of Decision (Exhibit D-2) that her Medicaid benefits through the Qualified Medicare Beneficiary Program, hereinafter QMB, would stop. This notice states, in pertinent part:

Action: Your Qualified Medicare Beneficiary coverage benefits will stop.
You will not receive this benefit after August 2010.

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

- 2) The Department presented evidence to indicate that the Claimant underwent a telephone review for her Supplemental Nutrition Assistance Program (SNAP) benefits on July 12, 2010 and reported that she started receiving surviving spouse social security benefits in addition to her RSDI. The Claimant was evaluated for continued participation in the Medicaid, Qualified Medicare Beneficiary (QMB) Program, and the determination was made that the Claimant's countable monthly income \$1,121 (monthly income of \$1,141 less the allowable deduction of \$20) exceeds the maximum allowable income for participation in the QMB Program. The Department noted, however, that the Claimant remains eligible to participate in the QI-1 Program and that her Medicare Premium is still being paid (D-5).

- 3) As a matter of record, the Claimant acknowledged that her income increased to \$1,141 but she contends that her income is less than \$1,174 per month and that she should remain eligible to participate in the QMB Program. The Claimant was citing the income guidelines for the SNAP Program (130% FPL) in Chapter 10, Appendix A and the Department noted the Claimant continued to meet the income guidelines for participation in SNAP following the July 12, 2010 telephone review. More importantly, the Claimant contends that she needs the QMB medical card because it help pays medical and prescription costs that Medicare does not.
- 4) West Virginia Income Maintenance Manual, Chapter 10.6,B, (GENERAL INCOME INFORMATION FOR MEDICAID COVERAGE GROUPS) states that in all (Medicaid) cases, the worker must determine the amount of income that can be reasonably anticipated for the AG. Income is projected and past income is used only when it reflects the income the client reasonably expects to receive.
- 5) Policy found in the West Virginia Income Maintenance Manual, Chapter 10.16,B states that the countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. In order to eligible for QMB, policy states “Income is less than or equal to 100% FPL.”
- 6) According policy found in the West Virginia Income Maintenance Manual, Chapter 10.22,B, the Claimant qualifies for a \$20 income deduction.
- 7) Chapter 10, Appendix A of the West Virginia Income Maintenance Manual (effective 10/09) reveals that the maximum countable monthly income for a one (1) person AG is \$903.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that participation in the QMB Program requires eligible individuals to have a countable monthly (net) income equal to or less than 100% of FPL. Chapter 10, Appendix A (effective 10/09) reveals that 100% of FPL for a one (1) person AG is \$903.
- 2) The evidence submitted at the hearing reveals that the Claimant resides in a one (1) person household and her monthly income (\$1,141) less the allowable deduction (\$20) results in a countable monthly (net) income of \$1,121.
- 3) Whereas the Claimant’s monthly countable income (\$1,121) exceeds the maximum allowable income for a one (1) person AG (\$903), the Department has correctly determined that the Claimant no longer meets QMB financial eligibility requirements.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department’s decision to terminate the Claimant’s benefits through the QMB Program based on excessive income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of January, 2011.

**Thomas E. Arnett
State Hearing Officer**