



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

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

May 12, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 21, 2011. Your hearing request was based on the Department of Health and Human Resources' action to terminate your M-WIN Medicaid eligibility due to excessive assets.

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 M-WIN Medicaid Program is based on current policy and regulations. One of these regulations specifies that the asset limit for M-WIN is \$2,000 for a single individual and \$3,000 for an individual who lives with his legal spouse. Total countable assets of the couple are combined to determine asset eligibility. [WV Income Maintenance Manual Section 23.11]

Information submitted at your hearing indicates that your household assets are excessive for the M-WIN program.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in terminating your M-WIN Medicaid coverage.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Jennifer Mitchell, ESS, WV DHHR, [REDACTED] Office

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

██████████
Claimant,

v.

Action Number: 11-BOR-689

**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 May 12, 2011, 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 (DHHR). This fair hearing was convened at the ██████████ County office of the WV DHHR in ██████████ WV, with the Hearing Examiner appearing via videoconference from the ██████████ County office of the WV DHHR in ██████████ WV, on April 21, 2011, on a timely appeal filed February 11, 2011.

II. PROGRAM PURPOSE:

The Medicaid Work Incentive (M-WIN) coverage group was established by West Virginia Legislation to assist individuals with disabilities in becoming independent of public assistance by enabling them to enter the workforce without losing essential medical care. To be eligible, a person must be disabled according to the Social Security Administration definition and must be engaged in competitive employment. Participants pay an enrollment fee and a monthly premium.

III. PARTICIPANTS:

-----, Claimant

Jennifer Mitchell, Economic Service Supervisor, WV DHHR, ██████████ County Office,
Department's representative

Presiding at the hearing was Stephen M. Baisden, State Hearings Officer and a member of the State Board of Review.

The Hearings Officer placed participants under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in terminating the Claimant's M-WIN Medicaid benefits due to excessive assets.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 23.11.A and Chapter 11.4.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Letter to Claimant from WV DHHR, ██████████ County office, dated January 11, 2011.
- D-2 Copy of Account Balance Statement from ██████████ WV.
- D-3 Copy of Purchase Contract for a 2007 Ford Taurus.
- D-4 Copy of life insurance cash value for policy in Claimant's name, from United American Whole Life, dated February 2, 2011.
- D-5 Copy of life insurance cash value for policy in name of Claimant's spouse, from United American Whole Life, dated February 2, 2011.
- D-6 Copy of life insurance cash value for policy in Claimant's name, from Physicians Life Insurance Company.
- D-7 Copy of life insurance cash value for policy in Claimant's name, from an unnamed insurance company.
- D-8 Print-out from WV Department of Motor Vehicles (DMV) listing a vehicle in the name of Claimant and spouse.
- D-9 Print-out from WV Department of Motor Vehicles (DMV) listing a vehicle in the name of Claimant's spouse.
- D-10 Asset calculation sheet based on Claimant's countable assets.
- D-11 WV Income Maintenance Manual, Chapter 23, Section 11.
- D-12 Denial letter to Claimant from WV DHHR, ██████████ County office, dated February 9, 2011.

VII. FINDINGS OF FACT:

- 1) On February 1, 2011, Claimant came to the WV Department of Health and Human Resources (DHHR), ██████████ County office, in order to reapply for the Medicaid Work Incentive (M-WIN) Medical Assistance Program. She provided verifications of various assets as requested by the Department in a letter dated January 31, 2011. (Exhibit D-1.)
- 2) Claimant's list of assets included the following: A checking account at Pioneer Community bank of ██████████ WV, with a balance of \$827.72 (Exhibit D-2); a whole life insurance policy for Claimant with a face value of \$10,000 and a cash value of \$900 from United American Insurance Company (Exhibit D-4); a whole life insurance policy for Claimant's spouse with a face value of \$5,000 and a cash value of \$465 from United

3) West Virginia Income Maintenance Manual, Chapter 23.11 (Exhibit D-11), states as follows:

A. Asset Limit

The asset limit for M- WIN is . . . \$3000 for an individual who lives with his legal spouse. Total Countable assets of the couple are combined to determine asset eligibility.

B. List of Assets

Assets are treated according to the policy in Chapter 11 for SSI-Related Medicaid with the following exceptions.

C. Special Asset Exclusions

Liquid asset exclusion:

Liquid assets in the amount of \$5,000 for an individual or \$10,000 for a legally married couple are excluded when determining total countable assets. Liquid assets are those in cash or payable in cash on demand. This includes checking or savings accounts and financial instruments such as, but not limited to, CDs or stocks and bonds which can be converted to cash within 20 work days.

4) West Virginia Income Maintenance Manual, Chapter 11.4.Z states as follows:

SSI-Related Medicaid, M-WIN, CDCS, PAC, QDWI, QMB, SLIMB and QI-1: 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. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted.

5) Department's representative submitted into evidence the calculation sheet used to determine if Claimant met the asset limit test for the M-WIN program. (Exhibit D-10.) According to this calculation sheet, the Department excluded the checking account owned by Claimant and spouse. (Exhibit D-2.) At the time of the review, the Department was aware of two vehicles owned by Claimant and spouse. (Exhibit D-8.) The trade-in value of the 1990 Ford Festiva was listed as \$450. This vehicle was excluded because it was used for the medical transportation of Claimant's spouse, a

disabled person. The trade-in value of the 2007 Ford Taurus was listed as \$5625. Claimant submitted the purchase contract for this vehicle (Exhibit D-3) which indicated that she owed \$10,886 on it. Since she verified that she owed more on the vehicle than its trade-in value, its trade-in value was not counted in Claimant's asset assessment. Claimant submitted verification of four whole life insurance policies. (Exhibits D-4, D-5, D-6 and D-7.) According to Income maintenance manual Chapter 11, Section 4.Z, the cash values of these policies are only considered to be assets if their combined face value is more than \$1,500. The combined face value of these policies is \$27,000, so their cash values are considered an asset. The combined cash value of these policies is \$4,161. According to the calculation sheet, the life insurance assets in the amount of \$4,161 were the only assets counted in Claimant's asset determination, but that amount is above the asset limit of \$3,000 for a married couple in the M-WIN program.

- 6) On February 9, 2011, the Department issued a termination letter to Claimant explaining that her M-WIN benefits would end effective February 28, 2011 due to excessive assets. (Exhibit D-12.)
- 7) Department's representative testified that before Claimant's February M-WIN review, the eligibility workers at the ██████████ County office of the WV DHHR did not process M-WIN applications correctly. She testified that the workers had received M-WIN training in the months before Claimant's review, they came to understand what assets were and were not counted for an M-WIN applicant, and that is why Claimant's insurance policies were questioned at her review.
- 8) Claimant testified that she would not under any circumstances cash in her life insurance policies. She stated that she believed it would be a mistake to pay on these policies for years, only to redeem them for cash. She testified that was prescribed very expensive medications and needed the medical card to help pay for them. She did not provide a substantial rebuttal to refute the Department's evidence and testimony that she over the asset limit for the M-WIN program.

VIII. CONCLUSIONS OF LAW

- 1) As a result of a review/redetermination for the M-WIN Medicaid Program, Claimant was determined to be ineligible for the program due to excessive assets.
- 2) Claimant held four whole life insurance policies with a combined cash value of \$4161, which is higher than the asset limit of \$3,000 for a married couple in this program.
- 3) The Medical Review Team acted correctly in determining that Claimant was not eligible for the M-WIN Medicaid Program due to excessive assets.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the decision of the Department to terminate the Claimant's M-WIN Medicaid coverage due to excessive assets.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of May, 2011.

**Stephen M. Baisden
State Hearing Officer**