



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

Rocco S. Fucillo  
Cabinet Secretary

August 16, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 24, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for SSI-Related Medicaid.

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 policy and regulations. One of these regulations specifies that no SSI-Related Medicaid case is denied due only to excess income. Instead, incurred medical bills are deducted from countable income for a six-month period of consideration. This process is called spenddown. Eligibility and the amount of the spenddown, if any, are determined using the Medically Needy Income Level (MNIL). [West Virginia Income Maintenance Manual Section 16.9]

Information submitted at your hearing reveals that you began receiving Social Security Disability benefits which were greater than the amount of the MNIL for one person, and as such, you must meet a spenddown in order to continue receiving Medicaid for a six-month period of consideration.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in requiring you to meet a spenddown in order to continue receiving SSI-Related Medicaid.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Sheila Napier, WV DHHR, ----- County Office

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

**IN RE: -----,**

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-1555**

**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 for ----- . This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing was convened by videoconference on July 24, 2012, on a timely appeal filed June 18, 2012.

**II. PROGRAM PURPOSE:**

The program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health and Human Resources.

The SSI-Related Medicaid Program is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as aged, disabled or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

**III. PARTICIPANTS:**

-----, Claimant

Sheila Napier, Economic Service Worker, Department's Representative

Presiding at the hearing was Stephen M. Baisden, State Hearing 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 its action to terminate the Claimant's SSI-Related Medicaid based on his receipt of Social Security income.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 9, Section 19.A, Chapter 16, Section 9, and Chapter 10, Section 22.D

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Income Maintenance Manual, Chapter 9.19.A
- D-2 Income Maintenance Manual, Chapter 16.9
- D-3 Income Maintenance Manual, Chapter 10 Appendix A

**VII. FINDINGS OF FACT:**

- 1) Department's Representative stated that Claimant was a recipient of SSI-Related Medicaid who had no income. She stated that on June 9, 2012, a worker processed a mail-in review form for Claimant, wherein he reported that he had been approved for and began receiving Social Security Disability benefits in the amount of \$909 per month.
- 2) Department's Representative stated that the Claimant was the only individual included in his Medicaid assistance group. She stated that the Claimant was married, but his wife receives SSI and therefore cannot be included in his SSI-Related Medicaid assistance group, according to the WV DHHR Income Maintenance Manual, Chapter 9.19.A.2. (Exhibit D-1.) She stated that the Medically Needy Income Limit (MNIL) for an assistance group of one person is \$200 per month, according to Income Maintenance Manual, Chapter 10, appendix A. (Exhibit D-3.) Therefore, she stated, Claimant's income was above the MNIL for an assistance group of one person. She stated that the policy for the SSI-Related Medicaid program indicates if an individual's income is above the MNIL for his or her assistance group, he or she may qualify for SSI-Related Medicaid for a six-month period of time by deducting incurred medical costs from the amount of income above the MNIL for the six-month period, a process known as

- 3) Department's Representative stated that Claimant's spenddown amount was calculated as follows: Claimant receives \$908 per month in Social Security Disability benefits. The MNIL for one person is \$200 per month. There is a \$20 per month income disregard for individuals who receive Social Security benefits. Claimant's \$908/month Social Security Disability is \$708 above the MNIL for an assistance group of one. Another \$20 is deducted from this amount as an income disregard; therefore the remaining \$688 per month is multiplied by six months for a sum of \$4,128. The Claimant must meet a spenddown of \$4,128 for the six-month period of consideration.
- 4) Claimant testified that because he had received SSI-Related Medicaid for years before he was approved for Social Security Disability benefits, he had no incurred medical costs that he could use in order to meet a spenddown of \$4,128. He stated that this meant he had no medical coverage until he was approved for Medicare, for which he had to wait two years. He stated that his physician prescribed him several expensive medications, and he could not afford to purchase these medications using his own resources. He added that these medications were essential to the maintenance of his health. Claimant did not dispute the fact that he receives Social Security Disability in the amount of \$908 per month.
- 5) West Virginia Income Maintenance Manual Section 9.19.A (Exhibit D-1) states:

**SSI-Related Medicaid**

1. Who Must Be Included:

The aged, blind or disabled individual and his eligible aged, blind or disabled spouse must be included, except when the spouse resides in a nursing facility or [Intermediate Care Facility for the Mentally Retarded].

2. Who Cannot Be Included:

SSI Recipients;

Any other person except the aged, blind or disabled individual and his or her aged, blind or disabled spouse.

- 6) West Virginia Income Maintenance Manual Section 10.22.D.11 states:

To receive a Medicaid card, the monthly countable income of the [assistance group] must not exceed the amount of the MNIL. If the income of the [assistance group] exceeds the MNIL, the client has an

opportunity to spend his income down to the MNIL by incurring medical expenses. These expenses are subtracted from the client's income for the 6-month Period of Consideration (POC), until his income is at or below the MNIL for the [assistance group] until the POC expires. The spenddown process applies only to AFDC-Related and SSI-Related Medicaid.

7) West Virginia Income Maintenance Manual Section 16.9 (Exhibit D-2) states:

No SSI-Related case is denied due only to excess income. Instead, incurred medical bills are deducted from countable income for the 6-month Period of Consideration. This process is called spenddown . . .

Eligibility and the amount of the spenddown, if any, are determined using the MNIL, not the SSI or cash assistance payment level. The level of the MNIL is determined by each state according to federal guidelines.

#### **VIII. CONCLUSIONS OF LAW**

- 1) Policy is clear that if an SSI-Related Medicaid recipient's income is above the MNIL for his or her assistance group, he or she must meet a spenddown in order to continue receiving this benefit.
- 2) Claimant did not dispute that he receives Social Security Disability in the amount of \$908 per month.
- 3) The Department acted correctly in requiring Claimant to meet a spenddown in order to continue receiving SSI-Related Medicaid.

#### **IX. DECISION:**

It is the ruling of the State Hearing Officer to **uphold** the decision of the Department to require Claimant to meet a spenddown in order to continue receiving SSI-Related Medicaid.

#### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16th Day of August, 2012.**

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**Stephen M. Baisden  
State Hearing Officer**