



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

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

February 21, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held February 17, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Qualified Medicare Beneficiary (QMB) benefits due to excessive income.

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 QMB program is based on current policy and regulations. These regulations provide that the income the recipient and their legal spouse are counted in determining eligibility. The income level is less than 100% of the Federal Poverty Level for the needs group (WV Income Maintenance Manual § 9.12 C).

The information submitted at your hearing revealed that your countable income is excessive for you to continue receiving QMB.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to terminate your QMB benefits due to excessive income.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Fred Burns, Economic Service Supervisor

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

IN RE: -----,

Claimant

v.

ACTION NO.: 12-BOR-526

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondents

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 17, 2012 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 a timely appeal, filed January 5, 2012.

It should be noted here that the Claimant's benefits under the Qualified Medicare Beneficiary program have been continued pending a decision.

II. PROGRAM PURPOSE:

The program entitled Qualified Medicare Beneficiary is administered by the West Virginia Department of Health and Human Resources.

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. T

III. PARTICIPANTS:

-----, Claimant

-----, Witness for Claimant
Fred Burns, Economic Service Supervisor

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's proposal to terminate Claimant's QMB is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.12 and Chapter 10 Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Notification Letter dated December 23, 2011

D-2 WV Income Maintenance Manual § 9.12 and Chapter 10 Appendix A

VII. FINDINGS OF FACT:

- 1) Claimant submitted a QMB review form on December 16, 2011. She reported her husband, -----, was residing in her household. A termination letter dated December 23, 2011 was issued by the Department which reads in pertinent part (D-1):

Your Qualified Medicare Beneficiary Coverage benefits will stop. You will not receive this benefit after December 2011. Income is more than the income limit for you to receive benefits.

- 2) Fred Burns, Economic Service Supervisor, testified the income of Claimant's spouse must be counted in determining eligibility for QMB. With the addition of -----'s earned income, the combined countable income was excessive for Claimant to continue receiving QMB. Mr. Burns stated Claimant has been approved for Specified Low Income Medicare Beneficiary (SLIMB) coverage, which has a higher income limit than QMB.
- 3) Claimant testified she and her husband have been separated for years, but live together now to save money and due to her health. Claimant stated they have separate bedrooms and split the bills. Claimant stated there is no money left over once the bills are paid to

even purchase food. Claimant did not contest the income that was used in determining eligibility for QMB, but asked for a policy exception.

- 4) WV Income Maintenance Manual § 9.12 B states:

The Income Group

Eligible Individual with Ineligible Spouse – Consider the income of the ineligible spouse to determine if it must be deemed.

- 5) WV Income Maintenance Manual § 9.12 C states:

The Needs Group

Eligible Individual with Ineligible Spouse, Income Deemed – The income limit for a couple is used.

- 6) WV Income Maintenance Manual Chapter 10 Appendix A states:

Income Limit for QMB for 2 in the Needs Group: \$1226

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that for SSI-Related Medicaid groups, the income of the individual and their spouse, if living in the home, is used in determining eligibility.
- 2) Claimant reported her husband as a resident of her household at her review in December 2011. The Department correctly followed policy in deeming -----'s earned income to Claimant in eligibility determination. Claimant's countable household income, after deductions, is excessive for Claimant to continue receiving Qualified Medicare Beneficiary benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate Claimant's Qualified Medicare Beneficiary benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21st day of February 2012

**Kristi Logan
State Hearing Officer**