



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

Earl Ray Tomblin
Governor

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

April 18, 2012

Dear ----- :

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 12, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Medicaid Work Incentive (M-WIN) benefits based on 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 Program is based on current policy and regulations. One of these regulations specifies that in order to be eligible for M-WIN, a single individual must not have countable assets exceeding \$2,000. [West Virginia Income Maintenance Manual Section 23.11]

Information submitted at the hearing reveals that your countable assets exceed \$2,000. Therefore, you are ineligible to receive M-WIN benefits.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate your M-WIN benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Mark Kennedy, ESS, WVDHHR

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

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

Claimant,

v.

ACTION NO.: 12-BOR-777

**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 the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened via videoconference on April 12, 2012 on a timely appeal filed February 27, 2012.

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
Mark Kennedy, Economic Service Supervisor, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, 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 Agency was correct in its proposal to terminate M-WIN benefits based on excessive assets.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 11.4 and 23.11

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Statement from United Bank for period of December 20, 2011- January 22, 2012
- D-2 Vehicle asset information obtained from Department's computer system
- D-3 West Virginia Income Maintenance Manual Section 23.11
- D-4 Vehicle values for 2003 Dodge Stratus and 2005 Bombardier Outlander (submitted subsequent to hearing)

VII. FINDINGS OF FACT:

- 1) The Claimant is a recipient of Medicaid Work Incentive (M-WIN) benefits and underwent a case redetermination in February 2012. At that time, the Department determined that he was ineligible for the M-WIN Program due to excessive vehicle assets. The Claimant was notified of the proposed benefit termination in a Notice of Decision dated February 8, 2012.
- 2) Mark Kennedy, Economic Service Supervisor (ESS) with the Department, testified that the Claimant provided checking account information at the time of the redetermination (D-1), however, liquid assets in the amount of \$5,000 for an individual are excluded under the M-WIN Program. As the Claimant's checking account statement (D-1) listed a balance of \$4,203.06, the bank account was not considered in the Department's asset calculation. The ESS stated that the Claimant has a 2005 Mitsubishi Outlander all-terrain vehicle, a 2003 Dodge Status, and a 2006 GMC 4x4 truck. The ESS indicated that the 2006 GMC truck has the highest value and can be excluded as an asset under policy. However, the Department must count the values of the all-terrain vehicle and the Dodge Stratus (see Exhibit D-2). The ESS testified that the asset limit for M-WIN benefits for a one-person Assistance Group is \$2,000, therefore, the combined countable values of those vehicles exceeds the asset limit. It should be noted that Exhibit D-2 states that the Claimant owes nothing on the vehicles and the Claimant did not indicate any amounts are owed during the hearing.
- 3) The Claimant testified that he has received M-WIN benefits for several years and has reported the same vehicles at all of his financial reviews. He stated that he does not understand why his assets have suddenly been determined excessive. The ESS stated that the vehicles were likely counted incorrectly in the past due to a worker error.

The Claimant indicated that the Department has the make of the all-terrain vehicle listed as Mitsubishi, however, it is actually a Bombardier all-terrain vehicle. He stated that M-WIN

benefits are very important to him, as he has been on the program since suffering a brain injury. He testified that, although he has a disability, he wants to keep working.

- 4) The hearing record remained open until April 13, 2012, so that the ESS could update the values of the countable vehicles since the Department had considered the incorrect make of the all-terrain vehicle and it was unclear whether the value of the Dodge Status had been recently updated. The ESS provided the updated information following the hearing, indicating that the 2003 Dodge Status has a NADA trade-in value of \$1,400 and the 2005 Bombardier Outlander has a NADA retail value of \$1,515.
- 5) West Virginia Income Maintenance Manual Section 23.11 (D-3) states that the M-WIN asset limit for a single individual is \$2,000.
- 6) West Virginia Income Maintenance Manual Section 11.4, VV, states that the trade-in value of a vehicle is considered the current market value for M-WIN purposes. Section 3 of 11.4, VV, states that one vehicle, regardless of its value, can be excluded for M-WIN purposes if it is used for transportation of the Assistance Group.
- 7) West Virginia Income Maintenance Manual Section 11.4, NN, states that recreational vehicles are considered personal property for the M-WIN Program. The retail value must be used when determining equity.

VIII. CONCLUSIONS OF LAW

- 1) Policy states that the asset limit for a single individual for M-WIN benefits is \$2,000. As policy allows one vehicle exclusion and the exclusion of liquid assets up to \$5,000, the Claimant's checking account and his most valuable vehicle - the 2006 GMC truck - were not considered in the Department's determination of countable assets.
- 2) The Department determined that the Claimant's 2003 Dodge Status has a trade-in value of \$1,400 and the 2005 Bombardier Outlander all-terrain vehicle has a retail value of \$1,515. As the Claimant has full equity in the vehicles, his countable assets total \$2,915, rendering him ineligible for the M-WIN Program. While the Claimant indicated that he has reported the same vehicles to the Department for several years and has always been approved for the program, it is clear that policy had not previously been applied correctly. Therefore, the Department's proposal to terminate M-WIN benefits is correct.

IX. DECISION:

It is the ruling of the State Hearing Officer to **uphold** the proposal of the Department to terminate the Claimant's benefits under the M-WIN Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of April, 2012.

**Pamela L. Hinzman
State Hearing Officer**