



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

May 10, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 9, 2012. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Qualified Medicare Beneficiary benefits.

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 as follows: Countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. To be eligible for QMB coverage, income must be less than or equal to 100 percent of the Federal Poverty Level for the Needs Group size. (West Virginia Income Maintenance Manual Section 10.16)

Information submitted at your hearing reveals that your countable monthly household income is excessive for the QMB Program based on the income limit for a single individual.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your QMB benefits based on excessive income.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Angela Jennings, ESS, DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-945

**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 convened telephonically on May 9, 2012 on a timely appeal filed March 19, 2012.

II. PROGRAM PURPOSE:

The Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified Individuals (QI-1) 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 QMB 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.

III. PARTICIPANTS:

-----, Claimant

-----, Payroll Clerk, -----

-----, Secretary, -----

Angela Jennings, 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 Department was correct in its decision to terminate the Claimant's QMB benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 10.7, 10.16, 10.22 and Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Sections 10.7, 10.16, 10.22 and Chapter 10, Appendix A
- D-2 Claimant's earned and unearned income information

VII. FINDINGS OF FACT:

- 1) The Claimant is a recipient of Qualified Medicare Beneficiary (QMB) benefits and the Department determined that his income is excessive to remain eligible for the program. The Claimant was also determined to be financially ineligible for the Specified Low Income Medicare Beneficiary (SLIMB) Program and the Qualified Individuals (QI-1) Program, which have higher income limits.
- 2) The Department sent the Claimant a Notice of Decision on March 9, 2012 informing him that his QMB benefits would stop after March 2012.
- 3) Economic Service Supervisor Angela Jennings testified that the Claimant receives \$919 per month in Social Security income and monthly earned income of \$807.97 (based on an average bi-weekly calculation). The income limit for a one-person QMB Needs Group is \$931, according to West Virginia Income Maintenance Manual Section 10, Appendix A (D-1). It should be noted that the income limit for one person is \$1,117 per month for SLIMB and \$1,257 for QI-1.
- 4) The Claimant, a driver for -----, did not dispute the Department's income calculation, but indicated that his income is normally not as high because his hours as a driver vary. -----, Payroll Clerk at the -----, indicated she had not understood that Social Security income is considered in the calculation, and questioned why the Claimant had been eligible for QMB previously. The Economic Service Supervisor stated that the Department was previously unaware of the Claimant's earned income, therefore, it had

not been counted in the past. The Supervisor stated that the Claimant could reapply for benefits if he is now receiving less income.

- 5) West Virginia Income Maintenance Manual Section 10.16.B (D-1) states that countable income for the QMB Program is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. Allowable disregards and deductions are the SSI disregards/deductions specified in Section 10.22, B. The total monthly countable income is then compared to the QMB income level for the appropriate number of persons.
- 6) West Virginia Income Maintenance Manual Section 10.22.B, Income Disregards and Deductions:

The following disregards and deductions are applied, if applicable.

1. Earned Income

NOTE: These disregards and deductions apply only to earned income. Any unused portion of the disregards or deductions is not applied to unearned income.

- SSI \$20 Disregard: The remainder of the \$20 income disregard. See Unearned Income below.

- SSI Earned Income Disregard: \$65 and ½ of the remainder are subtracted from earned income and from gross profit from self-employment earnings. See item C below.

- Impairment-Related Work Expenses: Expenses for items or services which are directly related to enabling a person with a disability to work and which are necessarily incurred by the individual due to a physical or mental impairment. The individual must be:

- Disabled, but not blind; and
- Under age 65; or
- Received SSI or SSI-Related Medicaid as a disabled individual for the month before becoming age 65.

In addition, the severity of the impairment must require the individual to purchase or rent items and services in order to work and the expense must be reasonable and not reimbursable from another source, such as, but not limited to, Medicare or private insurance. The payment must be made with income received for a month in which the person both worked and received the services or used the item, or the payment may be made before the earned income is received when the person is working.

Examples of impairment-related work expenses include, but are not limited to, attendant care services both at home and at work, drugs and medical supplies and devices, federal, state and local income taxes and FICA, guide dogs, fees such as union dues, mandatory contributions such as pensions, meals consumed during work hours, work-related equipment or services, physical therapy, prosthesis, structural modifications to the person's home, transportation to and from work and vehicle modification.

- SSI Work-Related Expenses (Blind Persons Only): A deduction for impairment-related expenses necessary for employment is allowed, such as a seeing-eye dog, cane training, purchase of special equipment needed to perform or advance on the job, etc.

- Earnings Diverted to a PASS: Any earnings diverted to a PASS account are deducted from income.

- SSI Student Child Earned Income Disregard...

2. Unearned Income

- SSI \$20 Disregard: A \$20 Disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

NOTE: The SSI \$20 disregard is not applied to any unearned income received which is based on need. This includes, but is not limited to, VA benefits based on need. See VA Benefits in Section 10.3.

- Unearned Income Diverted to a PASS: Any unearned income diverted to a PASS account is deducted from income.

- For SSI-Related Children Only: 1/3 of the child support intended for the SSI-Related child is disregarded.

- Death Benefits: The portion of a lump sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual, is deducted.

- 7) West Virginia Income Maintenance Manual Section 10, Appendix A (D-1) states that the QMB income limit for a single individual is \$931.
- 8) West Virginia Income Maintenance Manual Section 10.3.TTT states that Social Security benefits are considered as unearned income for the QMB Program, while Section 10.3.DD states that employment income is counted toward QMB benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that countable income for the QMB Program is determined by subtracting any allowable disregards and deductions from the total non-excluded income. The income is then compared to the QMB income limit for the number of individuals in the Needs Group.
- 2) Policy specifies that employment earnings and Social Security benefits are counted as income for QMB purposes and must be included in the income calculation. Employment earnings qualify for a disregard of \$65 and ½ of the remainder of earned income. The Claimant's monthly earned income is as follows: $\$807.97 - \$65 = \$742.97$ divided by $\frac{1}{2} = \$371.49$ in countable earned income. The Claimant's countable unearned income is as follows: $\$919 - \20 SSI disregard = $\$899$. Therefore, the Claimant's total countable income is $\$1,270.49$.
- 3) As the income limit for a one-person QMB Needs Group is $\$931$, the Claimant's income is excessive for the QMB Program.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to terminate the Claimant's QMB benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 10th Day of May, 2012.

**Pamela L. Hinzman
State Hearing Officer**