



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin
Governor

BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Karen L. Bowling
Cabinet Secretary

June 17, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1808

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Official 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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Lori Woodward
State Hearing Official
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Rachel Hartman, ESS

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

██████████,

Appellant,

v.

Action Number: 15-BOR-1808

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

Respondent.

DECISION OF STATE HEARING OFFICIAL

INTRODUCTION

This is the decision of the State Hearing Official 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 convened on June 11, 2015, on appeal filed April 13, 2015.

The matter before the Hearing Official arises from the March 24, 2015, denial of Appellant's Medicaid application.

At the hearing, the Respondent appeared by Rachel Hartman, Economic Services Supervisor. The Appellant appeared by his representative, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Application for Health Coverage, dated March 13, 2015
- D-2 Supplement to Application for Health Coverage, dated March 13, 2015
- D-3 Notification of Denial, dated March 24, 2015
- D-4 WV Income Maintenance Manual §11.3
- D-5 WV Income Maintenance Manual, §4.1 (excerpt)
- D-6 WV Income Maintenance Manual, §17.2 (excerpt)
- D-7 ██████████ Bank Account Statement for January 2015

Appellant's Exhibits:

- A-1 List of properties, dated March 11, 2015
- A-2 Modification of Contract for Deed for ██████████ dated June 14, 2014 and Contract for Deed dated August 21, 2012
- A-3 Deed for ██████████, dated July 7, 2008

- A-4 Deed for [REDACTED] property, [REDACTED], dated November 8, 2007, and Certificate of Title to Motor Vehicle, [REDACTED] dated November 15, 2007 (situate at [REDACTED] and [REDACTED] dated December 21, 2007 (situate at [REDACTED])
- A-5 Contract for Deed, [REDACTED], dated July 1, 2011
- A-6 Personal Property Bill of Sale for three mobile homes situate at [REDACTED] [REDACTED], dated November 7, 2008
- A-7 Contract for Deed, [REDACTED], dated January 23, 2009, and Certificate of Title to Motor Vehicle, [REDACTED] dated August 14, 2009 (situate at [REDACTED]), [REDACTED] dated August 14, 2009 (situate at [REDACTED]), [REDACTED] dated August 14, 2009 (situate at [REDACTED] and [REDACTED]) [REDACTED] dated August 14, 2009 (situate at [REDACTED].)

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Official sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant’s representative made an application for health care coverage on March 13, 2015 (hereinafter referred to as “application”), reporting the Appellant had income from Social Security in the amount of \$1219 in addition to other income listed as investment income from properties of 1245.75/mo. (Exhibits D-1 and D-2) It was also reported that Appellant owned non-homestead property valued at \$62,750 and was currently receiving care in [REDACTED]. (Exhibit D-2)
- 2) The Department sent a Notice of denial to the Appellant on March 24, 2015, stating that the amount of assets is more than is allowed for SSI Related/Non-Cash Assistance Medicaid program benefits. The assets used were liquid assets (\$50) and real property assets which totaled \$32,398.30, with the allowable limit being \$2000. (Exhibit D-3)
- 3) The non-homestead property owned by the Appellant, [REDACTED], is under a land contract with the Appellant receiving monthly payments under the terms of the contract from this property.
- 4) The Appellant co-owns with his father, [REDACTED], non-accessible, income-generating, non-homestead property.
- 5) The calculations used in the Appellant’s denial failed to include all the reported income.

APPLICABLE POLICY

WV Income Maintenance Manual (IMM) §11.2.D, explains that a client may not have access to some assets. To be considered an asset, the item must be owned by or available to the client and available for disposition. If the client cannot legally dispose of the item, it is not his asset. Examples of inaccessibility include, but are not limited to, property sold with a land sale contract. The property does not belong to the seller as long as a legal contract is in effect; homestead/non-homestead property being purchased by a land sale contract. The property does not have equity value for the buyer until the terms of the contract are fulfilled.

IMM §11.2.E, conversion or sale of an asset, instructs that assets may be either liquid or non-liquid. An asset is converted from one form to another by sale or exchange. In addition, assets may be exchanged for assets of the same form. General instructions for use when assets are converted are that the worker must determine if the result of the conversion is an excluded or non-excluded asset. The result of the sale of an asset is never counted as income or as a lump sum payment to the client. The only exception is when payment is received in installments, rather than in a lump sum. (Emphasis added)

IMM §11.4.Y shows that a land sale contract is counted as an asset for SSI-Related Medicaid groups. The property is considered to belong to the buyer or purchaser as long as a legal contract is in effect but has no equity value until the terms of the contract are fulfilled. When an individual holds a land sale contract as a creditor, the outstanding balance of principal payments is an asset unless there is a legal bar to the sale of the contract. (Emphasis added)

DISCUSSION

Per policy, the Department must consider the gross income of an individual for Medicaid eligibility. The Appellant reported income from Social Security (\$1,219/month) in addition to investment properties (\$1245.75/month). However, the Department did not include the reported Social Security income in their eligibility determination used in the denial.

Additionally, it is unclear as to how the Department derived the amount of \$32,348.30 under “Real Property Assets” in the eligibility determination used in the denial, when the application showed the non-homestead property valued at \$62,750. It is also unclear as to how the Department determined there was \$50 in liquid assets also used in the eligibility determination used in the denial.

There was evidence showing that the reported non-homestead property ([REDACTED]) is under a land contract for which the Appellant is receiving monthly payments under the terms of the purchase agreement.

There was evidence presented that the Appellant owns non-accessible, income producing, property jointly with his father, [REDACTED]. It is unclear whether the Department considered these properties and their income in their eligibility determination used in the denial.

CONCLUSION OF LAW

The Department failed to completely assess the Appellant's financial situation *in toto* in issuing the Medicaid denial.

DECISION

It is the decision of the State Hearing Official to **reverse and remand** the case back to the Department for a complete Medicaid eligibility determination.

ENTERED this 17th day of June 2015.

Lori Woodward, State Hearing Official