



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
235 Barrett Street  
Grafton, WV 26354  
January 5, 2005

Bob Wise  
Governor

Paul L. Nusbaum  
Secretary

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mrs. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 8, 2004. Your hearing request was based on the Department of Health and Human Resources' proposal to discontinue your benefits (medical coverage and in-home services) under the Medicaid, Aged/Disabled Home & Community- Based Services Waiver Program.

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.

Medicaid, Aged/Disabled Home & Community- Based Services Waiver is granted to those individuals who meet all eligibility requirements. One of these requirements is as follows: The determination of countable assets for the A/D Waiver Program is the same as for SSI-Related Medicaid. To be eligible for programs administered by the Office of Family Support, the total value of countable assets cannot exceed specified limits. The Medicaid countable asset limit for a one person Medicaid group is \$2000. (West Virginia Income Maintenance Manual §17.25 and 11.3)

The information which was submitted at your hearing revealed that the countable value of your current assets (certificates of deposit and life insurance) which must be considered in determining your financial eligibility exceeds the current maximum allowable- \$2000.

It is the decision of the State Hearing Officer to **uphold** the proposal to discontinue your benefits under the Medicaid, Aged/Disabled Home & Community- Based Services Waiver Program.

Sincerely,

Ron Anglin  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Pat Ratliff, [REDACTED] County DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on January 6, 2005 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 originally convened on December 8, 2004 on a timely appeal filed October 29, 2004. It should be noted here that benefits under the Medicaid Title XIX Waiver (HCB) Program have continued. All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE:**

The Program entitled **Medicaid, Aged/Disabled Home & Community- Based Services Waiver** is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Under Section 2176 of the Omnibus Budget Reconciliation Act of 1981, states were allowed to request a waiver from the Health Care Financing Administration (HCFA) so that they could use Medicaid (Title XIX) funds for home and community-based services. The program's target population is individuals who would otherwise be placed in an intermediate or skilled nursing facility (if not for the waiver services).

Services offered under the Waiver Program will include: (1) chore, (2) homemaker and (3) case management services. West Virginia has been offering the Waiver Services Program since July, 1982 to those financially eligible individuals who have been determined to need ICF level care but who have chosen the Waiver Program Services as opposed to being institutionalized.

**III. PARTICIPANTS:**

\_\_\_\_\_, daughter to claimant

\_\_\_\_\_, daughter to claimant

Pat Ratliff, ESS, Agency Representative

Susan Hinzman, ESS

Presiding at the hearing was Ron Anglin, 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 claimant is financially eligible for services under the Medicaid, Aged/Disabled Home & Community- Based Services Waiver Program?

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual §11.3, 11.4 and 17.25

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

A-1- Case Comments 10/5/04- 10/29/04  
A-2- Asset Determination, 10/26/04  
A-3- CD Information, rec.10/26/04  
A-4- WVIMM 17.25, 11.3 & 11.4  
A-5- Notification, 10/15/04

## **VII. FINDINGS OF FACT:**

(1) October 29, 2004 a hearing requested. Hearing scheduled and convened December 8, 2004.

(2) During the hearing, exhibits as noted in section VI above were presented.

(3) Pat Ratliff testified that a case review was completed 10/5/04. Info request given for verification of various assets. Funds available from CDs determined as \$2202.28 and \$1012.36. A third CD was determined to be burial fund and excluded. 1999 values of life insurance determined to be \$1280.23. These were not updated prior to notification of closure. Assets totaled \$4494.87 or \$2494 over the \$2000 limit.

(4) [REDACTED] testified that she accounted for an early withdrawal penalty in determining value of CD. Value given to life insurance is conservative as they are based on 1999 values, which were the only ones available at the time. Checking account didn't enter into this.

(5) \_\_\_\_\_ testified that they didn't understand situation. Mother doesn't have copies of life insurance policies but has requested them from the company. Want her to remain on program. Has no disagreement with the value of assets as determined by the agency

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

(1) West Virginia Income Maintenance Manual § 17.25 states in part: The determination of countable assets (for the A/D Waiver Program) is the same as for SSI-Related Medicaid. See Chapter 11.

(2) West Virginia Income Maintenance Manual § 11.3 reads in part:

To be eligible for programs administered by the Office of Family Support, the total amount of countable assets cannot exceed the amounts which are listed... This section also reveals that the Medicaid countable asset level for a one person Medicaid group is \$2000.

(3) West Virginia Income Maintenance Manual § 11.4 contains policy relating to bank accounts, CD's and life insurance policies.

## **IX. DECISION:**

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency's determination to discontinue the claimant's Medicaid, Aged/Disabled Home & Community- Based Services Waiver Program based on excessive countable assets.

Policy provides that the determination of countable assets (for the A/D Waiver Program) is the same as for SSI-Related Medicaid. To be eligible for programs administered by the Office of Family Support, the total value of countable assets cannot exceed established maximums. The Medicaid countable asset level for a one person Medicaid group is \$2000.

Evidence submitted reveals that the value of the assets in question (cash value of life insurance policies and CD's) totals at least \$4494 exceeding the \$2000 maximum by \$2494.

Based on the evidence presented during the hearing, the Agency's determination as set forth in the August 3, 1999 notification is **upheld**.

**X. RIGHT OF APPEAL**

See Attachment.

**XI. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.