



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

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

September 18, 2007



Dear Mr. 

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 7, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Home and Community Based Waiver Medicaid services.

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 Home and Community Based Waiver Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: The asset limit for Medicaid for a one-person Assistance Group is \$2,000. (West Virginia Income Maintenance Manual Chapter 11.3)

Information presented during your hearing reveals that the countable equity value of your non-homestead property exceeds the Home and Community Based Waiver Medicaid Program asset limit.

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate Home and Community Based Waiver Medicaid benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Harold Langevin, ESW, DHHR



**III. PARTICIPANTS:**

██████████ Claimant  
██████████, Case Manager, ██████████  
Harold Langevin, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is whether the Agency is correct in its proposal to terminate the Claimant's Aged/Disabled Waiver Medicaid benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapters 11.3 and 11.4, CC

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

**Department's Exhibits:**

- D-1 Notice of Decision dated July 25, 2007
- D-2 West Virginia Income Maintenance Manual Chapter 11.3
- D-3 ██████████ Lease Agreement
- D-4 ██████████ Realty Exclusive Right to Sell Agreements
- D-5 Letter from West Virginia Housing Development Fund dated July 17, 2007
- D-6 Letter from West Virginia Housing Development Fund dated August 7, 2007
- D-7 Letter from ██████████
- D-8 Letter from West Virginia Housing Development Fund dated August 23, 2007

**VII. FINDINGS OF FACT:**

- 1) The Economic Service Worker received information that the Claimant had left his homestead and moved into the ██████████ apartment complex. The Claimant's lease agreement is verified in Exhibit D-3.
- 2) Since the Claimant is no longer living in his former residence, the Economic Service Worker testified that the property must now be counted as a non-homestead asset. He calculated the equity value of the property as \$3,389.65 and that value was undisputed during the hearing. The property has been under a sales agreement (D-4) since October 2006.

- 3) The Department sent the Claimant a Notice of Decision (D-1) on July 25, 2007 which states, in part:

ACTION: Your Home and Community Based Waiver Medicaid will stop. You will not receive this benefit after JULY 2007.

REASON: The amount of assets is more than is allowed for this benefit.

- 4) The Claimant is no longer making payments on his former homestead and sent a letter (D-7) to the West Virginia Housing Development Fund requesting that the house be returned to that organization. A letter from the West Virginia Housing Development Fund dated August 23, 2007 (D-8) states that the Claimant's loan is in default and gives the Claimant 30 days to correct the default or face foreclosure proceedings. The letter indicates that "acceleration and default is due to the fact that you are no longer residing in the above referenced property and are not using the property as your primary residence."
- 5) The Claimant and his Case Manager testified that the Claimant had been renting his house to an individual for \$160 per month, however that individual made only one payment and is no longer paying rent. The Case Manager stated that it is only a matter of time before the Claimant's residence is in foreclosure status. The Economic Service Worker testified that the equity value of the non-homestead property must be considered a countable asset until the Claimant can verify that he no longer has interest in the property as a result of the foreclosure.
- 6) West Virginia Income Maintenance Manual Section 11.3 (D-2) states that the asset level for Medicaid for a one-person Assistance Group is \$2,000.
- 7) West Virginia Income Maintenance Manual Section 11.4, CC states that the equity value of non-homestead property is counted as an asset for SSI-Related Medicaid Assistance Groups unless it meets certain criteria regarding income production or necessity for self-support.

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

- 1) Policy states that the asset limit for Medicaid for a one-person Assistance Group is \$2,000 and that the equity value of non-homestead property is counted as an asset unless it meets certain exemptions.
- 2) As the Claimant moved from his former residence into an apartment, the former residence is now considered non-homestead property and must meet a policy exemption in order to prevent it from asset consideration. While the Claimant had planned to rent the residence to an individual, his testimony revealed that the tenant paid rent for one month only and is no longer paying rent. Therefore, the property does not meet an exemption based on income production.

- 3) As the countable equity value of the Claimant's non-homestead property exceeds \$2,000, the Claimant's assets are excessive for the Home and Community Based Waiver Program.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to terminate the Claimant's Home and Community Based Waiver benefits.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 18th Day of September, 2007**

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**Pamela L. Hinzman  
State Hearing Officer**