



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**2699 Park Avenue, Suite 100**  
**Huntington, WV 25704**

**Joe Manchin III**  
**Governor**

**Martha Yeager Walker**  
**Secretary**

October 16, 2006

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

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 12, 2006. Your hearing request was based on the Department of Health and Human Resources' action to your application for the Title XIX Aged/Disabled Waiver Services Program.

In arriving at a decision, the State Hearings 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 and benefit levels for the Aged/Disabled Waiver Services Program are determined based on current regulations. One of these regulations is the client's monthly gross non-excluded income is compared to the 300% of the maximum SSI payment for a single individual. (WV Income Maintenance Manual Section 17.24).

The information which was submitted at the hearing revealed that your monthly countable gross income of \$1863 exceeds 300% of the maximum SSI payment amount of \$1809 for a single individual.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny your application for the Title XIX Aged/Disabled Waiver Services Program.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Brenda Bailey, Department Hearing Rep.  
\_\_\_\_\_, Claimant's POA

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 06-BOR-3029**

**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 concluded on October 12, 2006 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 on October 12, 2006 on a timely appeal filed September 22, 2006.

It should be noted here that the claimant's benefits have been denied pending a hearing decision.

**II. PROGRAM PURPOSE:**

The Program entitled Title XIX Aged/Disabled Wavier Services 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 a skilled nursing facility (if not for the waiver services).

**III. PARTICIPANTS:**

1. \_\_\_\_\_, Claimant's POA.
2. Brenda Bailey, Department Hearing Rep.

Presiding at the Hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the claimant meets the income eligibility guidelines for the Title XIX Aged/Disabled Waiver Services Program.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 10.22, 17.24, and Chapter 10, App. A.

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

**Department's Exhibits:**

- #A Copy of hearing summary.
- #B Copy of application dated 9-14-06 (20 pages).
- #C Copy of computer income screens (3 pages).
- #D Copy of denial letter 9-19-06 (3 pages).
- #E Copy of manual sections (13 pages).

**Claimant's Exhibits:**

None.

**VII. FINDINGS OF FACT:**

- 1) The claimant son (\_\_\_\_\_) and Power of Attorney (POA) applied for the Title XIX Aged/Disabled Waiver Services Program on 9-14-06 on behalf of the claimant and reported income of \$930 Social Security (RSDI), \$574 Black Lung, and \$230 UMMA for a total monthly income of \$1734 and the application was pended for verifications (Exhibit #B).
- 2) On 9-18-06, the worker verified through SOLQ that the claimant's RSDI was actually \$1079.40 and verification of the UMWA was received showing \$230.15.
- 3) The total monthly gross income of \$1883.65 was entered into the computer and exceeded the 300% of SSI amount of \$1809 after a deduction of \$20 for the SSI disregard.
- 4) The application was denied due to excessive monthly income and notification of denial was issued on 9-19-06 (Exhibit #D).
- 5) Testimony from Mr. \_\_\_\_\_ indicated that the RSDI amount of \$930 is the amount his mother actually receives, that he pays someone to take care of her, that she has to be fed, that diapers cost \$600 to \$700 a month, and that he has been trying for a long time to get her some help.

- 6) Testimony from Ms. Bailey indicated that the Medicare Premium of \$88.50 is deducted from the RSDI check before it is sent to the recipient and that the claimant may have Medicare Prescription benefits for which a premium would be deducted or may have an overpayment being deducted. Ms. Bailey testified that those deductions must be considered in the gross income total and that the amount of \$1079.50 was the gross RSDI amount.
- 7) WV Income Maintenance Manual Section 17.24 states, in part:

“The determination of which income to count is the same as SSI-Related Medicaid. See Chapter 10. No income is deemed to the client. The client’s monthly gross non-excluded income is compared to 300% of the maximum SSI payment for a single individual. There is no post-eligibility process for this coverage group.

EXAMPLE: When the current maximum SSI payment is \$603, the client’s gross, non-excluded income must be equal to or less than \$1809, to be Medicaid-eligible .”
- 8) WV Income Maintenance Manual Section 10, Appendix A states, in part:

“Maximum SSI amount for single individual - \$603”
- 9) The area of dispute involves the amount of income being considered toward determining eligibility. The 300% of SSI amount is \$1809. The RSDI check amount the claimant actually receives is \$930. If only the Medicare Premium of \$88.50 is added to the \$930 amount, this would total \$1018.50 and would make the gross income \$1822.65. However, the Department verified through a computer printout from the Social Security Administration that the claimant’s gross RSDI was \$1079.50 and this amount must be used in determining income eligibility. Thus, the claimant’s total gross monthly countable income of \$1883.65 less the \$20 SSI disregard deduction (\$1863) exceeds the 300% SSI amount of \$1809.

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

- 1) Regulations in WV Income Maintenance Manual Section 17.24 state that the determination of which income to count is the same as SSI-Related Medicaid, that the monthly gross non-excluded income is compared to 300% of the maximum SSI payment for a single individual, and that the income must be equal to or less than the 300% of the SSI payment. The SSI monthly payment amount is \$603 and 300% of the monthly SSI payment is \$1809 and the claimant’s total gross monthly income is \$1883.65.
- 2) Regulations in WV Income Maintenance Manual Section 10.22 state that the only deduction for which the claimant is eligible is the \$20 SSI disregard. The total countable monthly income of \$1883.65 less the \$20 SSI disregard leaves a countable income of \$1863.65 which exceeds the 300% of SSI payment amount of \$1809.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the action of the Department to deny the application for the Title XIX Aged/Disabled Waiver Services Program due to excessive countable monthly income.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16th Day of October, 2006.**

---

**Thomas M. Smith  
State Hearing Officer**