



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 24, 2006

_____ for

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 6, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits and services under the Medicaid, Aged/Disabled Title XIX (Home & Community-Based) 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.

The Aged /Disabled (HCB) Title XIX Waiver Services Program is granted to those individuals who continue to meet all eligibility requirements. One of these requirements is that the individual must qualify financially. In order for an individual to qualify financially, the client's monthly gross non-excluded income cannot exceed 300% of the maximum SSI payment for a single individual. [West Virginia Income Maintenance Manual, Chapter 17.24].

The information submitted at your hearing reveals that your gross monthly non-excluded income exceeds the maximum allowed to receive benefits and services through the Medicaid, Aged & Disabled Waiver Services Program.

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate your benefits and services under the Aged/Disabled Title XIX (HCB) Waiver Program.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lisa Heater, ESW, DHHR

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

_____,

Claimant,

v.

Action Number: 05-BOR-6541

**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 January 24, 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 December 6, 2005 on a timely appeal, filed August 26, 2005.

It should be noted here that the Claimant's benefits and services through the Medicaid, Title XIX Waiver, (HCB) Program have continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Medicaid Title XIX Waiver (HCB) 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:

_____, Claimant's wife / representative
Lisa Heater, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 continues to be financially eligible for benefits and services under the Aged/Disabled Waiver (HCB) Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 17.24 & Chapter 10, Appendix A.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHHR-1	Claimant's Hearing Request
DHHR-2	Notice of Decision (Closure letter) dated 8/17/05.
DHHR-3	Proof of Claimant's Income
DHHR-4	WVIMM 17.24 & 17.39
DHHR-5	WVIMM Chapter 10, Appendix A

VII. FINDINGS OF FACT:

- 1) On or about August 17, 2005, the Department notified the Claimant that his benefits and services through the Aged & Disabled Waiver Services Program, hereinafter ADW, would be terminated after August 2005(Exhibit DHHR-2). This notice states in pertinent part:

Action: Your home and Community Based Waiver Medicaid will stop.
You will not receive this benefit after August 2005.

Reason: Income is more than the gross income limit for you to receive benefits.

Your income has increased.

- 2) The Department's representative testified that a computer alert was received on the Claimant's case indicating that financial eligibility needed to be reviewed. The determination was made that the Claimant's income had increased. Exhibit DHHR-3 verifies the Claimant's gross monthly earnings in the amount of \$1145.20 from Social Security benefits and \$651 from a pension/retirement plan. The Claimant's gross monthly non-excluded income is \$1796.65.
- 3) West Virginia Income Maintenance Manual, Chapter 17.24 (Income eligibility for the Home and Community Based Waiver Program) states that the client's monthly gross non-excluded income is compared to 300% of the maximum SSI payment for a single individual.
- 4) West Virginia Income Maintenance Manual, Chapter 10, Appendix A reveals that 300% of the maximum SSI payment for a single individual is determined by multiplying the SSI amount (\$579) x 3 = \$1737. The maximum gross monthly non-excluded income cannot exceed \$1737.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant was an active recipient of benefits and services through the Aged & Disabled Waiver Services Program when the Department received a computer alert to review his financial eligibility.
- 2) In order to be financially eligible to receive benefits and services through the Aged & Disabled Waiver Services Program, the client's monthly gross non-excluded income cannot exceed 300% of the maximum SSI payment for a single individual (\$1737 per month).
- 3) The Claimant's verified gross monthly non-excluded income of \$1796.65 exceeds the maximum allowable limit (\$1737).
- 4) Whereas the Claimant exceeds the maximum monthly gross non-excluded income limit, financial eligibility cannot be established.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to terminate your benefits and services under the Aged/Disabled Title XIX (HCB) Waiver Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th Day of January, 2006.

**Thomas E. Arnett
State Hearing Officer**