



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third Street
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 30, 2006

_____ for _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your mother's hearing held March 28, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your mother's Medicaid benefits as the result of her ineligibility for the Aged/Disabled (HCB) Title XIX Waiver Services 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.

Eligibility for the Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: When the client's medical condition improves to the extent that HCB services are no longer required, he is ineligible for the HCB coverage group when this is the method by which he qualified for Medicaid. He must be evaluated for all other Medicaid coverage groups. Recipients of HCB services who receive Medicaid under any other coverage group remain eligible for Medicaid, but cannot have HCB services paid any longer. (West Virginia Income Maintenance Manual Section 17.18C)

Information and testimony presented at the hearing revealed that your mother's Aged/Disabled Waiver benefits were terminated effective October 2005. Your mother is receiving Qualified Medicare Beneficiary benefits, but was determined ineligible for any other type of Medicaid.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate Medicaid benefits received in conjunction with the Aged/Disabled Waiver Program.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Sherie Poling, ESW, DHHR

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

_____,

Claimant,

v.

Action Number: 05-BOR-6859

**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 March 30, 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 March 28, 2006 on a timely appeal filed October 7, 2005.

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

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

_____, Claimant
_____, daughter of Claimant
Sherie Poling, 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 Medicaid coverage as a result of benefit closure under the Aged/Disabled Waiver Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 17.18C and 10.22

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Medicaid Notice of Decision dated September 28, 2005

Claimant's Exhibits:

C-1 Newspaper articles concerning Medicaid cuts

VII. FINDINGS OF FACT:

- 1) A fair hearing concerning the proposed termination of the Claimant's Aged/Disabled Waiver benefits was conducted on August 18, 2005.
- 2) The Department's proposal to terminate benefits was upheld in a September 14, 2005 hearing decision rendered by State Hearing Officer Thomas E. Arnett.
- 3) The Department sent a Notice of Decision to the Claimant (D-1) on September 28, 2005, which states:

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

Reason: The individual no longer requires the level of care provided by this Medicaid coverage.

Action: Your application for Medicaid dated 12/28/04 has been denied.

Reason: You stated you do not have medical bills to meet your spenddown. The amount of your spenddown is \$3054.00. You stated you did not have medical bills.

- 4) The Claimant submitted a fair hearing request on October 7, 2005 indicating that she wished to appeal the denial of her Medicaid.
- 5) Ms. Poling testified that the Claimant was receiving a Medicaid card in conjunction with her Aged/Disabled Waiver benefits. When those benefits were terminated, the Claimant was evaluated for other types of Medicaid. The Claimant is receiving benefits through the Qualified Medicare Beneficiary (QMB) Program which pays her Medicare premium and 20 percent of her hospital/physician bills, but Ms. Poling determined that the Claimant did not have sufficient medical bills to meet a spenddown of \$3,054 to qualify for the SSI-Related Medicaid Program. The Claimant was receiving monthly Social Security benefits of \$729 at the time of that determination.
- 6) Ms. _____ voiced concerns about the level of medical benefits available to her mother and testified that her mother is in need of assistance with personal care.
- 7) West Virginia Income Maintenance Manual Section 17.18C states:

When the client's medical condition improves to the extent that HCB services are no longer required, he is ineligible for the HCB coverage group when this is the method by which he qualified for Medicaid. He must be evaluated for all other Medicaid coverage groups. Recipients of HCB services who receive Medicaid under any other coverage group remain eligible for Medicaid, but cannot have HCB services paid any longer.
- 8) West Virginia Income Maintenance Manual Section 10.22 D.11 provides the following information regarding spenddown requirements for SSI-Related Medicaid:

To receive a medical card, the monthly countable income of the needs group must not exceed the amount of the MNIL (Medically Needy Income Level). If the income of the needs group exceeds the MNIL, the client has an opportunity to spend his income down to the MNIL by incurring medical expenses. These expenses are

subtracted from the client=s income for the 6-month Period of Consideration (POC) until his income is at or below the MNIL for the needs group until the POC expires. Eligibility begins on the date that medical bills bring the spenddown amount to \$0. Medical expenses, which are not subject to payment by a third party and for which the client will not be reimbursed, are used to reduce or eliminate the spenddown.

- 9) West Virginia Income Maintenance Manual Section 10.22(D)(11)(a) states:

If the client does not submit sufficient medical bills by the application processing deadline (30 days) (to satisfy the spenddown amount), the application is denied.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear that when an individual is no longer eligible for Home and Community-Based Waiver services, she is ineligible for the HCB coverage group when this is the method by which she qualified for Medicaid. The Department is then required to evaluate the Claimant for all other Medicaid coverage groups.
- 2) Information presented during the hearing reveals that the Claimant's Waiver services were terminated effective October 2005 following a fair hearing. The Department then evaluated the Claimant for other potential Medicaid coverage groups. The Claimant is receiving QMB coverage, but did not have sufficient medical bills to meet a spenddown under the SSI-Related Medicaid Program.
- 3) The Department took the correct action in proposing to terminate the Claimant's Medicaid coverage.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to terminate the Claimant's Medicaid benefits under the Aged/Disabled (HCB) Waiver Program and deny SSI-Related Medicaid based on failure to meet a spenddown.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of March, 2006.

Pamela L. Hinzman
State Hearing Officer