



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661**

**Earl Ray Tomblin
Governor**

**Karen L. Bowling
Cabinet Secretary**

April 6, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1115

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Carla Addair, Economic Service Supervisor

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

██████████,

Claimant,

v.

ACTION NO.: 15-BOR-1115

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual. This fair hearing was convened on April 2, 2015, on an appeal filed January 5, 2015.

The matter before the Hearing Officer arises from the decision by the Respondent to deny the Claimant's application for the Title XIX Aged and Disabled Waiver (ADW) Program.

At the hearing, the Respondent appeared by Carla Addair, Economic Service Supervisor for the WV DHHR, ██████████ Office. The Claimant appeared by his representative and sister-in-law ██████████. Both participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV DHHR Income Maintenance Manual (IMM), Chapter 11, §11.3
- D-2 Collection of life insurance policies with print-outs of each policy's cash surrender value attached, from ██████████

Claimant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Claimant's representative applied for the Aged and Disabled Waiver (ADW) program on his behalf. The Department denied his application because he and his wife had several life insurance policies, the cash-in values of which were above the asset level limit for this program.
- 2) The Claimant's representative submitted verification of his and his wife's life insurance policies (Exhibit D-2) to the Department as part of the Claimant's application. These policies, issued by [REDACTED] of [REDACTED], have cash surrender values in the amount of \$1,065.90, \$602.40, \$1,544.00, and \$1,844.00. The total amount of the cash surrender value of these policies is \$5,056.30. The asset limit for the ADW program is \$3,000 for a married couple.
- 3) The Claimant's representative did not dispute the cash surrender values of these life insurance policies. She stated that two of them are in the name of the Claimant's wife and not the Claimant. She stated that the Claimant and his wife each have pre-arranged burial accounts at a funeral home near their residence. The Department's representative stated that these accounts could act as deductions to the Claimant's asset amount, but the Department had no information regarding these burial accounts.

APPLICABLE POLICY

WV DHHR Income Maintenance Manual (IMM), Chapter 11, §11.3 states that countable assets for a two-person assistance group applying for SSI-Related Medicaid is \$3,000.00. The asset test for the Aged and Disabled Waiver Program is identical to the asset test for SSI-Related Medicaid.

WV IMM §11.3 reads, "In cases involving a husband and wife who are living together, only one of whom is eligible, the asset level for two persons is used for their combined non-excluded assets."

DISCUSSION

Evidence is clear that the Claimant has excessive assets for the Aged and Disabled Waiver (ADW) Program. Although his representative offered testimony to the effect that the Claimant and his wife have pre-arranged burial accounts which could act as a deduction to the amount of the assistance group's assets, the Department had no documentation concerning these accounts.

CONCLUSION OF LAW

Because the Claimant's assets are excessive for the Aged and Disabled Waiver Program, the Department acted correctly to deny his application for the Program, pursuant to the WV DHHR Income Maintenance Manual, Chapter 11, §11.3.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's proposal to deny the Claimant's application for the Aged and Disabled Waiver Medicaid Program due to excessive assets.

ENTERED this 6th Day of April 2015.

**Stephen M. Baisden
State Hearing Officer**