



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

May 12, 2006

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 20, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your Food Stamp application based on excessive income and to deny your AFDC-Related Medicaid application based on excessive assets.

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 both the Food Stamp and Medicaid Programs is based on current policy and regulations. Some of these regulations state that eligibility for Food Stamps is based on a determination of countable household income and the number of individuals in the Food Stamp benefit group. In addition, regulations for AFDC-Related Medicaid require the applicant to meet an asset test based on Assistance Group size before eligibility can be approved. (West Virginia Income Maintenance Manual Chapters 10.4 C, 10 Appendix A, and 11.3)

Information submitted at the hearing revealed that your household income is excessive to receive Food Stamps and your countable vehicle assets exceed the asset limit for AFDC-Related Medicaid.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your Food Stamp and AFDC-Related Medicaid applications.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Kent Wakefield, ESW, DHHR

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

____,

Claimant,

v.

**Action Number: 06-BOR-1010
06-BOR-1011**

**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 May 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 April 20, 2006 on a timely appeal filed February 2, 2006.

II. PROGRAM PURPOSE:

The program entitled Food Stamps is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nation's abundance of food to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households. This is accomplished through the issuance of an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The type of Medicaid categorically related to the Aid to Families with Dependent Children Program is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

____, Claimant
Kent Wakefield, 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 to be decided is whether the Agency was correct in its action to deny the Claimant's Food Stamp and AFDC-Related Medicaid applications dated January 17, 2006.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10.4, Chapter 10 Appendix C, and Chapters 11.3 and 11.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Rapids application dated January 17, 2006 and documentation
- D-2 Fair hearing request and documentation
- D-3 Rapids application dated March 9, 2006 and documentation
- D-4 Documentation of medical expenses
- D-5 Notices of Decision
- D-6 Asset test information
- D-7 West Virginia Income Maintenance Manual Chapters 11.3 and 11.4

VII. FINDINGS OF FACT:

- 1) The Claimant applied for Food Stamps and AFDC-Related Medicaid on January 17, 2006 (D-1).
- 2) The Claimant was issued a letter requesting that she verify her daughter ____'s gross income and the value of an all-terrain vehicle owned by her husband, _____. The requested income documentation (D-1) was received on January 18, 2006 and information also indicated that the all-terrain vehicle had been sold for \$500 on February 9, 2004.

Household income included total gross Social Security benefits of \$2,093 (\$888.50 for ____, \$444 for ____, and \$760.50 for _____) and earned income of \$102.33 (for _____) for a total of \$2,195.23.

The Claimant's vehicle equity was listed as \$1,600 for a [REDACTED] [REDACTED] \$1,375 for a 1989 [REDACTED] and \$4,125 for a 1998 [REDACTED]

- 3) On January 19, 2006 the Department sent the Claimant a Notice of Decision (D-5) indicating that her AFDC-Related Medicaid application had been denied due to excessive vehicle assets. In addition, the Claimant was sent a Notice of Decision (D-5) on January 20, 2006 indicating that her Food Stamp application had been denied due to excessive income.
- 4) The Claimant testified that she has a [REDACTED] and a [REDACTED] [REDACTED]. She testified that her daughter, who left the home on an unspecified date in March 2006, has a [REDACTED] and that her husband's name is merely on the title to that vehicle because her daughter was not yet 18 when the automobile was purchased.
- 5) West Virginia Income Maintenance Manual Chapter 10.4 contains policy regarding income disregards and deductions related to the computation of Food Stamp benefits. This section states that to determine the Food Stamp allotment, the countable income and number in the Assistance Group must be determined.
- 6) West Virginia Income Maintenance Manual Section 10.4B lists income deductions and disregards for the Food Stamp Program. These deductions include the following:
 - Earned income disregard of 20 percent
 - Standard deduction of \$134 as noted in Chapter 10, Appendix B for a one-to-four-person Assistance Group
 - Dependent care deduction
 - Child support deduction
 - Homeless shelter standard deduction
 - Medical expenses in excess of \$35 per month for elderly or disabled members of the Assistance Group
 - Shelter/utility deduction
- 7) West Virginia Income Maintenance Manual Section 10.4C specifies that countable income is determined by computing household income and subtracting all allowable deductions based on the household circumstances. Once countable income is determined, the coupon allotment is determined by finding the countable income and the number in the Assistance Group in Chapter 10, Appendix C.
- 8) West Virginia Income Maintenance Manual Section 11.3 (D-7) states that the asset level for a two-person Assistance Group for AFDC-Related Medicaid is \$3,000. The policy states that \$50 is added to the asset maximum for each additional needs group member.

- 9) West Virginia Income Maintenance Manual Section 11.4LL (D-7) states that the owner of a vehicle is generally the individual to whom it is titled. If the title is in the client's name- and he indicates the vehicle no longer belongs to him but the name on the title has not been changed- the vehicle is presumed to be his unless he can prove otherwise. Only those vehicles of members of the Assistance Group, individuals who are disqualified or excluded by law and who would otherwise be required to be included, are considered when determining vehicle assets.

The NADA trade-in value is usually used as the Current Market Value (CMV) for AFDC Medicaid, WV WORKS and AFDC-Related Medicaid.

- 10) West Virginia Income Maintenance Manual Chapter 11.4, 2 reveals the following in regard to consideration of vehicles for AFDC-Related Medicaid:

2. AFDC Medicaid and AFDC-Related Medicaid

STEP 1: When the AG Has Only One Vehicle

One vehicle is excluded, provided the equity does not exceed \$1,500. When the equity of the vehicle is greater than \$1,500, the excess amount is an asset. If the client disagrees with the NADA value or the vehicle is not listed in the NADA book, procedures in Step 2 are followed to determine equity.

STEP 2: Determining Equity in All Vehicles

The listed NADA trade-in value of the vehicle is used, unless one of the following conditions exists:

- The client disagrees with the listed NADA value.
The client is responsible for obtaining one estimate on form DFA-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this estimate, using form DF-67. If the Department has no objection to the client's estimate, it is accepted as the value used in determining equity. The NADA value is not used once an estimate has been obtained. If the Department determines that the estimate obtained by the client is unreasonable, a second estimate is obtained by the Worker from a qualified appraiser of the Department's choice. Form DF-67 is used to pay for the estimate. This estimate and the client's estimate are averaged to arrive at a value used in determining countable equity.
- The vehicle is not listed in the NADA Book or the NADA Official Older Car Guide due to year of manufacture. In this situation use the following instructions: The client's statement of the value of the vehicle(s) is accepted unless it appears incorrect.

In this situation the Worker requires that the client obtain one estimate. Form DFA-V-1 is used, and payment, when required, is made by the Department, using a DF-67. If the vehicle is listed as junk with the Department of Motor Vehicles, as indicated on the title of the vehicle, a sale value of \$25 is assigned to it, and that amount is used as the CMV.

In determining the countable value of the vehicle(s), only the equity is counted. Once the CMV is determined, the amount of the periodic installment payment is multiplied by the number of payments remaining. The result is subtracted from the CMV to determine the equity. Only when the client indicates he intends to pay off the vehicle in a lump sum is the pay-off amount used instead of the amount of remaining payments.

STEP 3: Determining Asset Value of All Vehicles

After equity is determined for each vehicle, \$1,500 is subtracted from the one with the highest equity. Any amount in excess of the \$1,500 is an asset for that vehicle. In addition, the equity in all other vehicles is counted in its entirety. See Step 1 above.

VIII. CONCLUSIONS OF LAW:

- 1) West Virginia Income Maintenance Manual Chapter 10, Appendix A indicates that the gross income limit for Food Stamps for a four-person Assistance Group is \$2,097 and the net income limit is \$1,613.
- 2) Calculations listed in Exhibit D-5 indicate that combined household income totaled \$2,195.23. Deductions for which the Claimant's household qualified as of January 17, 2006 included:

Earned income disregard of \$20.44 (20 percent of the \$102.33 earned income)

Standard deduction of \$134

Excess medical expenses of \$220.97

Shelter/utility deduction of \$99.35

The total of all deductions is \$474.76, leaving a net adjusted income of \$1,720.47 (\$2,195.23 minus \$474.76).

- 3) Based on information and testimony presented during the hearing, the Department correctly determined that household income as of January 17, 2006 exceeded the maximum allowable income for a four-person Food Stamp Assistance Group.
- 4) West Virginia Income Maintenance Manual Section 11.3 states that the asset level for a two-person AFDC-Related Medicaid Assistance Group is \$3,000 with an additional

\$50 added to the asset maximum for each additional needs group member. The asset limit for a three-person Assistance Group is \$3,050.

- 5) Exhibit D-6 indicates that the Claimant's total countable vehicle assets were determined as \$5,600 in conjunction with her AFDC-Related Medicaid application. The Claimant's vehicle equity was listed as \$1,600 for the [REDACTED] \$1,375 for the [REDACTED] and \$4,125 for the [REDACTED]. Policy dictates that \$1,500 is subtracted from the vehicle with the highest equity. The [REDACTED] equity value of \$4,125 minus \$1,500 = \$2,625 countable equity for that automobile. Vehicle equity of \$1,600, \$1,375 and \$2,625 = \$5,600 total countable vehicle equity. Although the Claimant indicated that the [REDACTED] is her daughter's vehicle, the car is titled to the Claimant's husband and policy dictates that the owner of the vehicle is generally the individual to whom it is titled. Policy also states that if the name on the title has not been changed, the vehicle is presumed to belong to whom it is titled unless he can prove otherwise.
- 6) The Department acted correctly in denying the Claimant's AFDC-Related Medicaid application since countable assets exceed \$3,050.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant's Food Stamp and AFDC-Related Medicaid applications dated January 17, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of May, 2006.

Pamela L. Hinzman
State Hearing Officer