



**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

May 22, 2005

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 18, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to close your SSI-related Medicaid case effective April 30, 2006 and action to determine a Food Stamp allotment of \$10 effective March 1, 2006.

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 for the Medicaid and Food Stamp Programs are based on current policy and regulations. Some of these regulations state as follows: Spenddown AG's are not redetermined and are closed at the end of the 6th month of the POC and the client must reapply for a new POC (WV Income Maintenance Manual Section 1.22 N, 2) and the Food Stamp allotment is determined based on countable monthly income less allowable deductions for the number of benefit group members (WV Income Maintenance Manual Section 10.4 and Federal Regulations Section 273.9 & 273.10).

The information which was submitted at your hearing revealed that your SSI-related Medicaid case must be closed effective April 30, 2006 and that you were eligible for a Food Stamp allotment of \$10 effective March 1, 2006.

It is the decision of the State Hearings Officer to uphold the action of the Department to close your SSI-related Medicaid case effective April 30, 2006 and to determine a Food Stamp allotment of \$10 effective March 1, 2006.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Deborah Kemp, Department Hearing Rep.

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

____,

Claimant,

v.

**Action Number: 06-BOR-1695 Food Stamps
06-BOR-1696 Medicaid**

**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 18, 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 May 18, 2006 on a timely appeal, filed April 24, 2006.

It should be noted here that the claimant's benefits have been continued for Medicaid and reduced for Food Stamps pending a hearing decision.

II. PROGRAM PURPOSE:

The Programs entitled Food Stamp Program and SSI-related Medicaid Program are set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture

The SSI-related Program is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as either aged disabled, or blind

as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

1. _____, Claimant.
2. Deborah Kemp, 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 Department took the correct action to close the SSI-related Medicaid Program case effective April 30, 2006 and to determine a Food Stamp allotment of \$10 effective March 1, 2006.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 1.22, 10.3, 10.4.
Federal Food Stamp Regulations Sections 273.9, 273.10.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHR-1 Copy of hearing request.
DHR-2A Copy of Food Stamp notification letter 2-13-06 (3 pages).
DHR-2b Copy of case comments 2-10-06 and 2-24-06.
DHR-2c Copy of Food Stamp allotment determination 2-10-06.
DHR-3a Copy of case comments 3-24-06 and 4-13-06
DHR-3b Copy of Food Stamp allotment determination 2-24-06.
DHR-3c Copy of Food Stamp notification letter 2-27-06 (3 pages).
DHR-4 Copy of Medicaid closure letter 4-18-06.
DHR-5a Copy of Manual Section 1.22 N.
DHR-5b Copy of Manual Section 1.22 R.
DHR-5C Copy of Manual Section 1.22 S.
DHR-6 Copy of Manual Section 10.4 (60 pages).

VII. FINDINGS OF FACT:

- 1) The claimant was receiving Food Stamps and SSI-related Medicaid when she was in the local office on 2-10-06 to complete a Food Stamp review at which time she reported

that she no longer paid rent and her household income had increased (Exhibit #DHR-2b).

- 2) The caseworker determined that the claimant was eligible for a Food Stamp allotment of \$10 and a notification of reduction of Food Stamps from \$80 to \$10 effective 3-1-06 was issued on 2-13-06 (Exhibits #DHR-2A & DHR-2c).
- 3) The claimant reported on 2-24-06 that she had moved and was paying rent of \$165 per month and all utilities but the Food Stamp allotment remained at \$10 (Exhibits #DHR-3a and #DHR-3b) and a notification letter was issued on 2-27-06 (Exhibit #DHR-3c).
- 4) The claimant's six (6) month period of eligibility for the Medicaid Program was due to expire on 4-30-06 and a notification letter of closure was issued on 4-18-06 informing the claimant that her spenddown Medicaid case would end on 4-30-06 (Exhibit #DHR-4) due to expiration of coverage time limit.
- 5) The claimant requested a hearing on 4-24-06 on Medicaid closure and Food Stamp amount and requested continued benefits and the Medicaid case was continued pending the hearing but the Food Stamps could not be continued as the hearing request was not timely for Food Stamps and the reduction was the result of a Food Stamp review.
- 6) The claimant testified that the information provided by Ms. Kemp sounded correct but that she needed more Food Stamps and needed the Medicaid coverage to continue.
- 7) Ms. Kemp testified that the claimant has reapplied for a new spenddown Medicaid case which is pending the hearing decision.
- 8) The areas of dispute involve the amount of Food Stamps and the closure of the Medicaid spenddown case with a requirement to reapply. The calculation of the Food Stamp allotment was based on the countable income less allowable deductions and Exhibit #DHR-3b reveals that the gross income of \$1030 less the standard deduction of \$134 results in an adjusted income of \$896 and that the claimant's shelter expenses of \$437 do not exceed $\frac{1}{2}$ of the adjusted income (\$448) which results in no shelter deduction and a net Food Stamp income of \$896 which results in a \$10 Food Stamp allotment. In regard to the Medicaid case, the claimant's six-month period of eligibility (Period of Consideration-POC) expired on 4-30-06 and a new application is required.
- 9) "WV Income Maintenance Manual Section 10.4, C, 2 states, in part:

2. Determining Countable Income

The following steps are used to determine countable income for cases meeting eligibility tests in item 1 above.

Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross non-excluded unearned income

Step 4: Subtract the Standard Deduction found in App. B.

Step 5: Subtract the Dependent Care Deduction up to the maximums found in Appendix B.

Step 6: Subtract the amount of legally obligated child support actually paid

Step 7: Subtract the Homeless Shelter Standard Deduction.

Step 8: Subtract allowable medical expenses in excess of \$35.

Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/utility cost or shelter/SUA amount.

Step 10:	No One Elderly or Disabled	At least One Person Elderly or Disabled
Shelter/Utility Equal To or less than Step 9.	No further computation is needed. The amount from Step 8 is the countable income.	No further computation is needed. The amount from Step 8 is the count. income
Shelter/Utility Greater Greater than Step 9	The amount in excess of 50%, of 50%, not to exceed the Shelter/utility cap, is deducted to arrive at count. income.	The amount in excess of 50% is deducted, without regard to the shelter/utility cap, to arrive at countable income.

Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size. This net income test does not apply to Categorically Eligible AG's.

3. To determine the coupon allotment, find the income and the number in the AG in App. C..”

10) WV Income Maintenance Manual Section 10.22 D, 11 states, in part:

“To receive a Medicaid card, the monthly countable income of the Needs Group must not exceed the amount of the MNIL. 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 POC, until his income is at or below the MNIL for the FDG size, or until the POC expires. The spenddown process applies only to AFDC/U-Related and SSI-Related Medicaid.

A. Procedures

The Worker must determine the amount of the client's spenddown at the time of application based on information provided by the client. The spenddown amount may have to be revised if the verified income amount differs from the client's statement. He must also explain the spenddown process to the client during the intake interview. An ES-6A is attached to the ES-6 which notifies the client that an eligibility decision cannot be made until he meets the spenddown by providing proof of medical expenses. The ES-6 must also contain any other information the client must supply in order to determine eligibility.

Once the client presents sufficient medical expenses to meet his spenddown obligation and all other Medicaid eligibility requirements are met, a NEWAP, REOPN, or APPRV transaction, is completed. Immediately after approval transaction, medical expenses are entered in the data system according to the date incurred, i.e., oldest expense first....

The following procedures are required to accomplish the spenddown process.

- The Worker prepares an ES-6, attaches an ES-6A and gives them to the client during the intake interview or mails them after the interview.....

- The client is requested to provide proof of his medical expenses, date incurred, type of expense and amount and to submit them to the Worker by the application processing deadline.

- When the bills or verification are received, the Worker reviews them to determine that:

- The expenses were incurred, they are not payable by a third party, and the client will not be reimbursed by a third party.

- The individual(s) who received the medical services is one of the people described in item b below.

- The expenses are for medical services and are appropriate to use to meet a spenddown.....

- The Worker must record pertinent information about expenses received from the client on the IM-MS-1.....

- If the client does not submit sufficient medical bills by the application processing deadline, the application is denied using reason code 0136....."

11) WV Income Maintenance Manual Section 1.22 N states, in part:

"Spenddown cases are not to be redetermined and are closed at the end of the 6th month of the POC. The client must apply for a new POC".

12) WV Income Maintenance Manual Section 1.22 R, 2 states, in part:

"Spenddown cases receive a computer-generated letter at the end of the 5th month of the POC. This letter informs the client that his eligibility will end at the end of the following month and that he must reapply for Medicaid coverage."

VIII. CONCLUSIONS OF LAW:

- 1) WV Income Maintenance Manual Section 10.4 C, 2 states that the Food Stamp allotment is determined by the countable income less allowable deductions and the number of persons in the AG. The claimant was determined to be eligible for \$10 per month in Food Stamps effective March, 2006 and the State Hearing Officer finds that the Department took the correct action in determining the claimant's Food Stamp eligibility effective March, 2006.
- 2) WV Income Maintenance Manual Section 1.22 R, d states that spenddown AG's receive a computer-generated letter at the end of the 5th month of the POC and this letter informs the client that his eligibility will end at the end of the following month and that he must reapply for Medicaid coverage.
- 3) WV Income Maintenance Manual Section 1.22 N, 2 states that spenddown AG's are not redetermined and are closed at the end of the 6th month of the POC and that the client must reapply for a new POC. The Department has followed policy correctly and issued notification on 4-18-06 that the SSI-related Medicaid case would be closed effective 4-30-06 and that the claimant must reapply for Medicaid benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to close the SSI-related Medicaid Program case effective 4-30-06 and to determine that the claimant was eligible for \$10 in Food Stamps effective March 1, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of May, 2006.

**Thomas M. Smith
State Hearing Officer**