



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

September 25, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 21, 2006. Your hearing request was based on the Department of Health and Human Resources' actions to determine that you were eligible for \$212 in Food Stamps effective August, 2006 and to provide limited medical coverage under the Qualified Medicare Beneficiary (QMB) Program.

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 Food Stamp and Qualified Medicare Beneficiary Programs is based on current policy and regulations. Some of these regulations state as follows: 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) and Medicaid coverage is limited to payment of the Medicare, Part A and Part B premium amounts and payment of all Medicare co-insurance and deductibles (WV Income Maintenance Manual Section 16.6).

The information which was submitted at your hearing revealed that you were correctly determined to be eligible for \$212 in Food Stamps effective August, 2006 and that the Qualified Medicare Beneficiary (QMB) Program provided only limited coverage and does not provide coverage for items such as eyeglasses.

It is the decision of the State Hearings Officer to uphold the actions of the Department to determine that you were eligible for \$212 in Food Stamps effective August, 2006 and to provide limited medical coverage under the Qualified Medicare Beneficiary (QMB) Program.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Gina Thompson, Department Hearing Rep.
Pamela Davis, Department Hearing Rep.

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

_____,

Claimant,

v.

**Action Number: 06-BOR-2521 (FS)
06-BOR-2522 (QMB)**

**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 September 21, 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 September 21, 2006 on a timely appeal filed July 24, 2006. It should also be noted that the hearing was originally scheduled for September 1, 2006 but was rescheduled at Department's request to allow both caseworkers to attend.

It should be noted here that the Food Stamp benefits were reduced and the Qualified Medicare Beneficiary (QMB) benefits were continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Programs entitled Food Stamp Program and Qualified Medicare Beneficiary (QMB) 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 Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified Individuals (QI-1 and QI-2) Programs provide

limited coverage under the Medicaid Program for eligible individuals or couples who are eligible for Medicare, Part A and who meet specified income tests. The QMBV program has a lower maximum income level and provides coverage of all Medicare co-insurance and deductibles as well as payment of the Medicare premium. SLIMB and QI-1 have higher maximum income levels and provide only for the payment of the Medicare Part B premium. The maximum income level for QI-2 is 175% of the Federal Poverty Level. This program pays for a portion of the Medicare premium.

III. PARTICIPANTS:

1. _____, Claimant.
2. Gina Thompson, Department Hearing Rep.
3. Pamela Davis, 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 determine that the claimant was eligible for \$212 in Food Stamps effective August 1, 2006 and to provide limited coverage policy under the QMB Program.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 10.3, 10.4, 16.6 C.
Federal Food Stamp Regulations Sections 273.9, 273.10.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Food Stamp issue:

- D-1 Copy of unearned income printout 7-11-06.
- D-2 Copy of on-line query for RSDI.
- D-3 Copy of unearned income printout 6-22-06.
- D-4 Copy of WV Income Maintenance Manual Section 10.4 C (3 pages).
- D-5 Copy of notification letter 6-23-06 (3 pages).

Qualified Medicare Beneficiary issue:

- A Copy of hearing summary (2 pages)
- B Copy of hearing summary outline.
- C Copy of hearing information (5 pages).
- D Copy of Medicare printout.
- E Copy of Qualified Medicare Beneficiary approval letter (3 pages).
- F Copy of WV Income Maintenance Manual Section 16.6 C (3 pages).

G Copy of case comments (8 pages).

VII. FINDINGS OF FACT:

Food Stamp Issue:

- 1) The claimant was receiving Food Stamps when she called the local office on 6-22-06 about child support income and the caseworker (Ms. Thompson) noticed that the Social Security income had not been updated during the mass change in February, 2006.
- 2) The caseworker used the Social Security data exchange which showed Social Security had increased from \$587 to \$611 in December, 2005 which resulted in an increase in monthly Food Stamp net income to \$979 and a reduction of Food Stamp allotment from \$219 to \$212 per month (Exhibits #D1, #D2, #D3, and #D5).
- 3) Notification of the reduction of Food Stamps from \$219 to \$212 was issued on 6-23-06 effective 8-1-06 (Exhibit #D5).
- 4) The claimant requested a hearing on 7-24-06.
- 5) The claimant testified that she has three (3) boys and receives no child support, that she was receiving more Food Stamps before she got housing, and that the amounts used by the Department (\$611 Social Security for her and \$80 each for two (2) children and \$342 SSI for one (1) child) were correct.
- 6) “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.”

- 7) The area of dispute involves the determination of the amount of Food Stamps. The Department used Social Security of \$611 for the claimant and \$80 for each child (\$160) and \$342 SSI for a total gross income of \$1113. The only deduction was the standard deduction of \$134 and the net Food Stamp income was \$979 which results in a Food Stamp allotment of \$212. It is the finding of the State Hearing Officer that the Department correctly determined a Food Stamp amount of \$212 effective 8-1-06.

Qualified Medicare Beneficiary (QMB) Issue:

- 1) The claimant's QMB case was due for review and was recertified as the claimant receives Medicare through Social Security Administration and the review was completed on 7-19-06 with notification of approval for the QMB Program issued on 7-20-06 (Exhibit #E).
- 2) The notification letter dated 7-20-06 stated that the QMB Program will pay for the Medicare Premium and for the co-payment and deductible expenses related to Medicare (Exhibit #E).
- 3) The claimant requested a hearing on 7-24-06
- 4) Ms. [REDACTED] testified that the claimant wanted the QMB Program to pay for eye glasses which is not a covered item, that she referred her to the Lions Club, and that the

claimant told her she had no medical expenses which could be applied toward a spenddown Medicaid case.

5) The claimant testified that she cannot get things that the regular medical card pays for, that she does not know if the Lions Club will approve her for glasses, that she needs an ultrasound but cannot get it done as they ask her for \$60 up front, and that she is going without coverage.

6) WV Income Maintenance Manual Section 16.6 C states, in part:

“An individual or couple (spouses) is eligible for limited* Medicaid coverage when all of the following conditions are met:

- The individual must be enrolled in Medicare, Part B. He must be entitled in any of the following three 3 ways:

* By being age 64 years, 9 months old or older; or

* By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 24 months or longer; or

* By having end stage renal disease.

- The individual or couple must meet the income test detailed in chapter 10.....

-The individual must meet the asset test detailed in Chapter 11.

*Medicaid coverage is limited to payment of the Medicare, Part A and Part B premium amounts and payment of all Medicare co-insurance and deductibles, including those related to nursing facility services. The Buy-In Unit accomplishes payment of the Medicare premium.....

1. Medicaid Card Issuance

A different Medicaid card is issued to individuals or couples who are eligible for QMB coverage only. These cards have a printed message that identifies the coverage limits. If the QMB client is dually eligible for QMB and another Medicaid coverage group which receives full Medicaid coverage, 2 separate medical cards are issued.”

7) The area of dispute involves the coverage of the QMB Program. Regulations in WV Income Maintenance Manual Section 16.6 C clearly state that the QMB medical card is limited to payment of Medicare Part A and Part B premium amounts and payment of all Medicare co-insurance and deductibles. The State Hearing Officer finds that the QMB coverage is limited and the QMB medical card cannot provide direct coverage for items such as eye glasses or medical tests.

VIII. CONCLUSIONS OF LAW:

Food Stamp issue:

- 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.
- 2) The claimant was determined to be eligible for \$212 per month in Food Stamps effective August, 2006 based on Gross Food Stamp income of \$1113 less countable deductions of \$134 for a Net Food Stamp income of \$979. The State Hearing Officer finds that the Department took the correct action in determining the claimant's Food Stamp amount effective August, 2006.

Qualified Medicare Beneficiary (QMB) issue:

- 1) WV Income Maintenance Manual Section 16.6 C states that Medicaid coverage under the Qualified Medicare Beneficiary (QMB) Program is limited to payment of the Medicare, Part A and Part B premium amounts and payment of all Medicare co-insurance and deductibles.
- 2) The State Hearing Officer finds that the QMB coverage does not include items such as eye glasses and medical tests.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the actions of the Department to determine that the claimant was eligible for \$212 in Food Stamps effective August, 2006 and to provide limited coverage under the Qualified Medicare Beneficiary (QMB) Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of September, 2006.

**Thomas M. Smith
State Hearing Officer**