



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

March 24, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 29, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for food stamps and AFDC-Related Medicaid.

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 Food Stamp Program and AFDC-Related Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: To be eligible for programs administered by the Office of Family Support (OFS), the total amount of countable assets cannot exceed the amounts listed. Food Stamps: \$2,000 – all households except \$3,000 when at least one AG member is age 60 or over, or is disabled regardless of the size of the AG. The asset level for AFDC-Related Medicaid is \$3,050 for a Needs Group of 3. (Section 11.3 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you have excessive assets for both programs.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny your application for food stamps and AFDC-Related Medicaid.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Susan Godby, DHHR

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

_____,

Claimant,

v.

Action Numbers: 05-BOR-6408 & 05-BOR-6409

**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 29, 2005 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 29, 2005 on a timely appeal, filed August 8, 2005.

It should be noted here that the claimant's benefits have been denied.

II. PROGRAM PURPOSE:

The Programs entitled Food Stamp and AFDC-Related Medicaid 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 Medicaid categorically related to 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
Susan Godby, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, 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 claimant's household meets the financial requirements for the Food Stamp and AFDC-Related Medicaid Programs.

V. APPLICABLE POLICY:

Sections 11.3, 9.1A #4, and 11.5 of the West Virginia Income Maintenance Manual
7 CFR 273.8 and 7 CFR 273.5

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Form IG-BR-29 Hearing/Grievance Record Information
- D-2 Denial notice dated 08/03/2005
- D-3 Sections 10.3, 11.3, and 9.1 of the West Virginia Income Maintenance Manual
- D-4 Bank Statements
- D-5 Department's Summary

Claimants' Exhibits:

- C-1 Financial Aid Award Letter for 2005-2006
- C-2 Letter from Department of the Army dated 06/02/2005

VII. FINDINGS OF FACT:

- 1) The claimant applied for food stamps and AFDC-Related Medicaid on 07/08/2005.
- 2) The claimant was a full time student at the West Virginia School of Osteopathic Medicine. According to someone in the Admission office, the semester goes from August to May each year.
- 3) A notice dated 08/03/05 was sent to the claimant. It reads in part: Your 08/01/05 application for AFDC Related Medicaid has been denied. Reason: The income we count is too much for you to receive benefits. The amount of assets is more than is allowed for this benefit. Your 07/08/05 application for Food Stamps has been denied. Reason: The amount of assets is more than is allowed for this benefit. (D-2)

- 4) According to Ms. Godby's testimony, Mr. _____ provided a bank statement showing the balance of \$2,504.17 as of 06/30/2005 and another checking account with a balance of \$804.25. This totaled \$3,308.42. (D-4) This amount exceeded the food stamp asset level of \$2,000. In addition to the bank balances, a second vehicle with equity of \$1620 was counted toward the AFDC-Related Medicaid asset limit. The Medicaid asset level for a family of 3 is \$3,050.
- 5) According to Ms. Godby's testimony, the claimant has taken his State Board test and would not be considered a student when he does his internship. Later testimony revealed the claimant is a third year student, not an intern and the Department agreed with this conclusion.
- 6) The claimant also expressed concern that the worker was counting the VA benefits he received for going to school as income.
- 7) The claimant's monthly stipend at the time of application was \$1235 per month. Mr. _____ testified that he does not receive VA benefits. He is currently on six weeks active duty. Mr. _____ testified that the school year is year round. He is currently in year 3. Year 1 is August to May. Year 2 goes August to May. Year 3 begins the end of May and goes year round until graduation in 2007.
- 8) The supervisor Mr. _____ talked to told him that his income was calculated as the money that was in his student loan savings accounts were counted as assets because there was a three month period he was considered to be not in school. What was left in the student loan accounts was being counted as personal assets, not as student loan income. At the time, he was still in school. Funds are dispersed two times a year – January and June. He has two savings accounts. One he keeps strictly for insurance – payments for health insurance and rent – Acct # _____. The second account is set up for groceries, and any other incidentals – Acct # _____. He also has a checking account. He receives a check for the disbursements. He generally puts them in his checking account and then divides the money between his savings accounts. The stipend he receives comes two times a month (1st and 15th) direct deposit into his checking account. Everything that is in the savings accounts is from student loans. The money that goes into his checking account bi-monthly is stipend from the Army. If he has any student loan money left, he pays that back to the Army.
- 9) The bank accounts are listed as _____ . (D-4)
- 10) The claimant does not receive VA benefits. The money he receives is part of his scholarship program through the Army. His employment with the Army is as a student. He was never discharged from the Army. He went from active duty to medical school. The Army pays for school and gives him a stipend as income and six weeks active duty. The assets that were counted were student loan money. He was told by the worker that the money was being counted as personal assets due to the fact he was past the disbursement date.
- 11) All of his tuition is paid for by the Army. All of his books and medical equipment is paid for. This is HPSP School. This money goes directly to the school. Everything else is loan monies. (C-1) The Perkins loan, Stafford loan and unsubsidized Stafford loan is what goes into the savings accounts. He is currently doing a rotation at the hospital. He

does not get paid. This is a part of school. His wife does not have any type of income. He is in his third year of school. He is not an intern.

- 12) Mr. _____ testified that the monies in both savings accounts are student loan money.
- 13) Section 11.3 of the West Virginia Income Maintenance Manual reads in part that to be eligible for programs administered by the Office of Family Support (OFS), the total amount of countable assets cannot exceed the amounts listed. Food Stamps: \$2,000 – all households except \$3,000 when at least one AG member is age 60 or over, or is disabled regardless of the size of the AG. AFDC-Related Medicaid - \$3,050 for a Needs Group of 3.
- 14) Section 9.1 A #4 of the West Virginia Income Maintenance Manual reads in part that in applying the student policy, it is first necessary to determine if any member of the Food Stamp AG is a student. Students who meet one or more of the following criteria are eligible to participate, provided all other eligibility factors are met. 1) The student is employed at least 20 hours per week and is paid for employment. 2) The student is participating in a state- or federally-financed CWS program during the regular school year. 3) The student is included in a WV WORKS payment. 4) The student is assigned to or placed in an institution of higher education through one of the following: The Food Stamp Employment and Training Program, JTPA, Section 236 of the Trade Act of 1974, or an employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to FSE&T. 5) Students who are responsible for the care of children who meet certain criteria, may be eligible to participate even though they are students. Responsible means having the principal responsibility for the care of the child.
- 15) Section 11.5A #2 of the West Virginia Income Maintenance Manual reads in part that if a student is found ineligible to participate in the Program because he does not meet the criteria for student eligibility, his assets are excluded. Part A#3 of the same section reads in part that the treatment of jointly owned assets becomes significant when all the joint owners are not included in the AG. An asset is considered jointly owned when the client has an investment in it or his name appears on it. (b) If all of the joint owners are not in the AG, the asset owned jointly is considered available in its entirety to the AG, unless it can be demonstrated that such assets are inaccessible. If the AG can demonstrate that it has access to only a portion of the asset, the value of that portion is an asset.
- 16) Section 11.5B #1b of the West Virginia Income Maintenance Manual reads in part that for AFDC-Related Medicaid, the asset limit used for the AG is based on the size of the Needs Group. Assets of all the members of the Income Group are counted, except the assets of a child are never counted for his sibling(s) or for his parents.
- 17) Section 11.5B #2 of the West Virginia Income Maintenance Manual reads in part that for AFDC-Related Medicaid, student status has no bearing on asset eligibility.
- 18) Section 11.2B of the West Virginia Income Maintenance Manual reads that money that is counted as income when received, becomes an asset if retained in the month after the month of receipt.

VIII. CONCLUSIONS OF LAW:

- 1) An application was made on July 8, 2005 for food stamps and AFDC-Related Medicaid. _____ is considered an ineligible student for food stamps. There would be 2 in the food stamp AG (Mrs. _____ and their child) and three in the AFDC-Related Medicaid AG.
- 2) The asset level in this case is \$2,000 for food stamps and \$3,050 for AFDC-Related Medicaid.
- 3) _____ and his wife have three jointly owned bank accounts (two savings and checking). The names listed on the accounts are _____. The balance in savings account #_____ as of 06/30/05 was \$2,504.17. The balance in savings account #_____ as of \$7,431.78. The balance prior to a student loan being deposited 06/20/05 was \$1,115.44. The checking account had a balance of \$804.24 as of 06/30/05. The claimant's stipend income is deposited in the checking account.
- 4) Un-refuted testimony revealed there was also a second vehicle with equity of \$1620 counted toward the AFDC-Related Medicaid asset level.
- 5) Mr. _____'s assets would be excluded for food stamps as he is an ineligible student. However, the bank accounts are jointly owned. Policy is clear in that if all of the joint owners are not in the AG, the asset owned jointly is considered available in its entirety to the AG, unless it can be demonstrated that such assets are inaccessible.
- 6) The claimant's total assets from savings exceed the allowable limit for food stamps. The claimant's total assets from savings and the equity in the vehicle exceed the allowable limits for AFDC-Related Medicaid. This balance does not include the checking account as the claimant's monthly income is being deposited in this account. However, anything carried over to the next month in this account is considered an asset.

IX. DECISION:

It is the finding of the State Hearing Officer that the claimant had excessive assets for the Food Stamp and AFDC-Related Medicaid Programs. The Department is upheld in the decision to deny the claimant's application.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th Day of March, 2006.

**Margaret M. Mann
State Hearing Officer**