



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 14, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 7, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits for excessive income and SSI-Related Medicaid for failure to meet a spenddown.

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 SNAP and SSI-Related Medicaid is based on current policy and regulations. Some of these regulations state as follows: Individuals who otherwise meet eligibility requirements but who have income in excess of the established standard will be ineligible for medical coverage unless this excess is insufficient to meet their medical needs. These individuals are required to spenddown this excess amount in order to qualify for coverage. For Medicaid purposes, a six month period of consideration (POC) is used to project countable income. If medical bills sufficient to satisfy the established spenddown are not submitted, the application is denied. To determine the SNAP allotment, find the countable income and the number in the assistance group (West Virginia Income Maintenance Manual ' 10.4 and 10.22).

The information submitted at your hearing revealed that your income exceeds the allowable income limits to continue receiving SSI-Related Medicaid without meeting a spenddown.

However, your countable net income after allowable deductions is below the income limits for you to continue receiving SNAP benefits.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to terminate your SSI-Related Medicaid for failure to meet a spenddown and **reverse** the decision of the Department to terminate your SNAP benefits due to excessive income.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Dorothy Ellison-Hunter, Family Support Supervisor
Gloria Moore, Adult Protective Services

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

-----,

Claimant,

v.

**Action Number: 09-BOR-1042
09-BOR-1043**

**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 7, 2009 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 7, 2009 on a timely appeal, filed March 23, 2009.

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program (SNAP) and SSI-Related Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the SNAP 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 Medicaid 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:

-----, Claimant

-----, Claimant's Husband

Gloria Moore, Adult Protective Services

Dorothy Ellison-Hunter, Family Support Supervisor

Presiding at the Hearing was Kristi Logan, 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 or not the Department's decision to terminate Claimant's SSI-Related Medicaid and SNAP benefits was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A, 9.19 A and B, 10.4 C and D and 10 Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Grievance Record Information
- D-2 Notification Letter dated March 10, 2009
- D-3 Notification Letter dated March 9, 2009
- D-4 WV Income Maintenance Manual § 10.3 EE, 10.3 RR and 10.3 AAAA
- D-5 WV Income Maintenance Manual § 9.1
- D-6 WV Income Maintenance Manual § 9.19 and 1.22 H
- D-7 WV Income Maintenance Manual § 10.22 D
- D-8 Paystubs for ----- dated February 19, 2009 and March 5, 2009 and Verification Letter for -----'s Social Security Disability Income
- D-9 WV Income Maintenance Manual § 10 Appendix A
- D-10 Department's Summary

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant had been receiving SSI-Related Medicaid based on a disability determination made by the state Medical Review Team and SNAP benefits. She moved back in with her husband, -----, in February 2009. His income is excessive for Claimant to continue receiving SNAP benefits. Claimant would have also had to meet a spenddown in order for her SSI-Related Medicaid to continue. A notification letter dated March 10, 2009 was issued and read in part (D-2):

Your SNAP benefits will stop. You will not receive this benefit after March 2009. Income is too much for you to receive benefits.

Your application for Medicaid has been denied. You stated you do not have medical bills to meet your spenddown.

- 2) ----- testified that he receives Social Security Disability in the amount of \$961.40 gross a month. He is also an independent contractor for Suddenlink Communications. He sells cable television for [REDACTED] and is paid strictly on commission. His income varies from month to month. This is self-employment income as no taxes are deducted.

----- testified that his expenses from his self-employment is gas \$100 a week, tires for his vehicle \$160 a year and meals while travelling of \$60-\$70 a week. He has three (3) counties in his sales district.

----- stated his mortgage and insurance payment is \$288.77 a month and property taxes are approximately \$118 yearly. He pays his heating source of electricity. His Medicare premium of \$96.40 is deducted from his Social Security and he also pays \$150 for medications for himself. ----- stated they cannot afford Claimant's medications without Medicaid.

- 3) WV Income Maintenance Manual § 10.22 D(11) states:

To receive a Medicaid card, the monthly countable income of the Needs Group must not exceed the amount of the Medically Needy Income Level (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 Period of Consideration (POC), until his income is at or below the MNIL for the Needs Group until the POC expires.

- 4) WV Income Maintenance Manual § 9.19 A(1) states:

The Assistance Group: Who Must be Included [SSI-Related Medicaid]

The aged, blind or disabled individual and his eligible aged, blind or disabled spouse must be included

§ 9.19 B(1)b continues:

The Income Group

Eligible Couple: Count the couple's income

- 5) WV Income Maintenance Manual § 9.1 A(2) states:

Spouses who live together must be in the same Assistance Group [for SNAP]

- 6) WV Income Maintenance Manual § 10.4 D(4)b states:

Determining Gross Profit [for SNAP]

Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income.

Deductions

Examples of allowable deductions include, but are not limited to:

- Employee labor costs, including wages paid to an AG member and any salary the client pays himself.
- Stock and supplies
- Raw material
- Seed
- Fertilizers
- Repair and maintenance of machinery and/or property
- Cost of rental space used for conducting the business
- Payments on the principal and interest of the purchase price of income-producing real estate and capital assets, equipment, machinery and other durable goods
- Insurance premiums and taxes paid on the business and income-producing property
- The utilities, principal, interest and taxes for the client's residence which is used in part to produce income. This is applicable only if the costs on the portion of the home used in the self-employment enterprise can be identified separately.. The total deduction given for shelter and/or cost of doing business must not exceed the actual cost.
- Advertising costs
- Utilities
- Office expenses, such as stamps, stationery, etc.
- Legal costs
- Net Loss from self-employment farming. See item 4 below.

Do not deduct the following:

- Money set aside for retirement
- Travel from home to a fixed place of business and return
- Depreciation
- Amounts claimed as a net loss, except loss from farming self-employment.

7) WV Income Maintenance Manual § 10.4 C states:

Determining Eligibility [for SNAP]: When at least one AG member is elderly, which is at least age 60, or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A.

The following steps are used to determine countable income for cases meeting the eligibility test.

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 Appendix 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 found in Appendix B.
- 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: If at least one member is elderly/disabled, no further computation is needed. The amount from Step 8 is the countable income.

Determining coupon allotment: To determine the coupon allotment, the countable net income is multiplied by 30%. Subtract this amount from the maximum monthly benefit amount for the Assistance Group size as found in Appendix A.

- 8) WV Income Maintenance Manual § 10 Appendix A states:

Standard Deduction: 1-3 Persons in the AG \$144
 Standard Utility Allowance: Heating Cost Standard \$366
 Maximum SNAP Allotment: 2 Persons in the AG \$367

Gross SNAP Income Limit: 2 Persons in the AG \$1517
 Net SNAP Income Limit: 2 Persons in the AG \$1167

Medically Needy Income Limit (MNIL): 2 Persons in the AG \$275

VIII. CONCLUSIONS OF LAW:

- 1) As dictated in policy, the income of Claimant's spouse must be counted in determining her eligibility for SSI-Related Medicaid. -----'s income exceeds the Medically Needy Income Limit of \$275. The addition of his income caused Claimant to be required to meet the spenddown provision.
- 2) Claimant is unable to meet a spenddown. Claimant's SSI-Related Medicaid was correctly terminated.
- 3) -----'s gross self-employment income was calculated at \$758.80 monthly using an average of paystubs from February 19, 2009 of \$714 and March 5, 2009 of \$803.60. ----- reported his allowable expenses from this self-employment as gasoline \$100 weekly (converted to \$430 monthly) and tires \$160 yearly (converted to \$13.33 monthly). His net earned income is determined as \$315.47 monthly.
- 4) Claimant and -----'s SNAP allotment is calculated as follows:

Net self-employment income of \$315.47 minus the 20% earned income deduction (calculated as \$63.09) is \$252.38 plus gross earned income of \$961.40 is \$1213.78 gross countable income for SNAP.

\$1213.78 minus the Standard Deduction of \$144 is \$1069.78

\$1069.78 minus medical expenses \$211.40 (\$96.40 Medicare premium and \$150 medications for ----- minus \$35) is \$858.38

\$858.38 minus shelter/utility deduction of \$235.21 is \$622.97 (mortgage/insurance of \$288.77, property taxes \$118 yearly and heating standard utility allowance of \$366 totals \$664.60 minus 50% adjusted SNAP income \$235.41)

\$622.97 multiplied by 30% is \$186.89

\$186.69 minus the maximum SNAP allotment for 2 of \$367 is \$180

The SNAP allotment for Claimant's Assistance Group is calculated as \$180 a month.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate Claimant's SSI-Related Medicaid for failure to meet a spenddown and **reverse** the Department's decision to terminate Claimant's SNAP benefits. Claimant's Assistance Group is found to be eligible for SNAP benefits of \$180 monthly effective April 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 14th Day of May, 2009.

**Kristi Logan
State Hearing Officer**