



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 28, 2008

c/o _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law for your hearing held on July 22, 2008. Your hearing request was based on the Department of Health and Human Resources' denial of Long-Term Care 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 Long-Term Care Program is based on current policy and regulations. Some of these regulations state as follows: The asset limit for the Long-Term Care Program for a one-person Assistance Group is \$2,000. The asset eligibility determination must be made as of the first moment of the month of application. (West Virginia Income Maintenance Manual Chapters 11.2 and 11.3)

Information presented during your hearing reveals that you had a balance of \$6631.29 in your checking account on May 1, 2008. This asset is excessive for the Long-Term Care Program.

It is the decision of the State Hearing Officer to **uphold** the Department's denial of financial eligibility for Long-Term Care Medicaid for the month of May 2008.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Shelia Napier, [REDACTED] DHHR

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

_____,
Claimant,

v.

Action Number: 08-BOR-1652

**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 July 22, 2008 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 July 22, 2008 on a timely appeal filed June 27, 2008.

II. PROGRAM PURPOSE:

The program entitled Long-Term Care is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Long-Term Care is a medical service which is covered by the State's Medicaid Program. Payment for care is made to nursing homes which meet Title XIX (Medicaid) standards for the care provided to eligible recipients. In order to qualify for Nursing Home Care, an individual must meet financial and medical eligibility criteria.

III. PARTICIPANTS:

_____, Claimant's daughter
_____, Claimant's grandson – observing only

Shelia Napier, [REDACTED] DHHR Representative

Presiding at the hearing was Cheryl Henson, 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 Agency was correct in its denial of the Claimant's Long-Term Care Medicaid financial eligibility for the month of May 2008.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 11.2 and 11.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 WV Income Maintenance Manual Section 11.3
- D-3 WV Income Maintenance Manual Section 11.2
- D-4 [REDACTED] County Bank checking account verification dated May 27, 2008
- D-5 Copy of check written to [REDACTED] Nursing and Rehabilitation dated May 27, 2008
- D-6 Copy of receipt for payment from [REDACTED] Nursing and Rehabilitation dated May 27, 2008

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was receiving Medicaid for nursing home care in December 2007. On December 12, 2007 the Department became aware that the Claimant's husband had passed away and that her benefits had increased. While processing the new information, the Department pended the case and requested verification from the Claimant of her bank balance.
- 2) On February 11, 2008 the Department processed information received on the Claimant's behalf and entered a bank balance of \$3129.00 into the Rapids system. This asset caused the Claimant's benefits to fail. The Claimant's daughter reapplied for her mother's nursing home Medicaid on May 27, 2008. The Department again requested verification of the Claimant's bank balance in order to determine eligibility. The Claimant's daughter provided a copy of the bank statement dated May 27, 2008 (D-4) which shows that the bank balance on May 1, 2008 was \$6631.29. The Claimant's daughter provided verification that on May 27, 2008 she paid [REDACTED] Nursing and Rehabilitation \$6000.00 from the checking account on behalf of the Claimant. She provided copies of the check and receipt.(D-5, D-6)

- 3) The Department sent the Claimant a notification letter informing her that the May 27, 2008 application for Nursing Home Care had been denied because the amount of assets is more than is allowed for this benefit. The Claimant does not dispute the notice, and no copy of the notice was entered into the record. The Claimant's daughter contends that since she paid out \$6000.00 to the Nursing Home from the checking account during the month of May 2008, this amount should not be counted as an asset.
- 4) The Department contends that policy requires the Department to count the actual assets as of the first day of the month for the month of application, thus requiring them to count \$6631.29.
- 5) West Virginia Income Maintenance Manual Section 11.3 (D-5) states that the asset limit for Medicaid for a one-person Assistance Group is \$2,000.
- 6) WV Income Maintenance Manual Section 11.2(D-3) states the following pertinent information:

ESTABLISHING DATE OF ASSET ELIGIBILITY

1. SSI-Related Medicaid

The asset eligibility determination for these applications must be made as of the first moment of the month of application. The client is not eligible for any month in which countable assets are in excess of the maximum, as of the first moment of the month. Increases in countable assets during one month do not affect eligibility unless retained into the first moment of the following month.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that countable assets for the Claimant's May 27, 2008 application are determined by assessing the amount available as of the first day of the month of application. The Claimant is not eligible for any month in which countable assets are in excess of the maximum, as of the first moment of the month.
- 2) The Claimant's checking account balance was \$6631.29 as of May 1, 2008, and this is a countable asset. Although it is clear the Claimant's representative paid the Nursing Home \$6000.00 on the date of application, the full amount available at the beginning of the month must be counted according to policy.
- 3) The Claimant's assets clearly exceeded the \$2000.00 asset limit for the month of application, thus rendering the Claimant ineligible for Long Term Care Medicaid for that month.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Agency's action in denying the Claimant's Long-Term Care Medicaid application.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of July, 2008.

**Cheryl Henson
State Hearing Officer**