



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV
25313

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

November 16, 2016

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2802

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Misty Fielder, Department Representative

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2802

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on November 10, 2016, on an appeal filed September 29, 2016.

The matter before the Hearing Officer arises from the July 7, 2016 decision by the Respondent to deny Long-Term Care (LTC) Medicaid due to excessive assets.

At the hearing, the Respondent appeared by Misty Fielder. The Appellant was represented by ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual §17.10
- D-2 West Virginia Income Maintenance Manual §11.3
- D-3 West Virginia Income Maintenance Manual §11.4.C
- D-4 Copy of ██████████ Statement for ██████████, dated March 3, 2016 through May 24, 2016
- D-5 West Virginia Income Maintenance Manual §11.5
- D-6 Pre-Need Burial Contract, dated May 31, 2016
- D-7 West Virginia Income Maintenance Manual §11.4.Z
- D-8 The Western and Southern Life Insurance Policy, dated May 31, 2016

Appellant's Exhibits:

- A-1 The Western and Southern Life Insurance request for cash surrender, dated May 27, 2016
- A-2 The Western and Southern Life Insurance notice of cash surrender, dated June 9, 2016

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On June 10, 2016, the Appellant applied for Long-Term Care Medicaid effective June 1, 2016.
- 2) On July 7, 2016, the Appellant was notified that her application for Long-Term Care Medicaid was denied due to excessive assets for the program.
- 3) On May 31, 2016, the Appellant's checking account balance was \$561.50. (D-4)
- 4) On May 31, 2016, the Appellant's life insurance cash surrender value was \$2,775. (D-8)
- 5) On May 27, 2016, the Appellant's representative requested a withdrawal of the cash surrender value of the life insurance policy. (A-1)
- 6) On June 9, 2016, the Appellant's representative was notified that the request for cash surrender was processed on June 8, 2016, and that the surrender value would be mailed to him. (A-2)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §11.3 shows the SSI-Related Medicaid asset limit for a one-person assistance group as \$2,000.

WV IMM §11.4.C establishes that the amount of funds deposited into bank accounts, plus any accrued interest is counted as an asset.

WV IMM §11.4.G reads that cash on hand is a countable asset except when any portion of it is the current month's income.

WV IMM §11.4.Z indicates that the cash surrender value of all life insurance policies is counted as an asset if the face value of the policy is in excess of \$1,500.

DISCUSSION

The Appellant requested Long-Term Care Medicaid coverage beginning June 1, 2016. The Appellant's application was denied based on excessive assets. There was no dispute of the amount of the Appellant's bank account or life insurance cash surrender value. The Appellant's representative contended that the Appellant no longer had the life insurance policy effective May 27, 2016.

Policy states that an individual must meet an asset test to qualify for the Long-Term Care Medicaid Program, and the asset limit is \$2,000 for a one-person Assistance Group. The Department calculated the Appellant's total assets as \$3,336.50.

The Appellant's representative, [REDACTED], testified that on May 27, 2016, he requested a withdrawal of the cash surrender value of the Appellant's life insurance. He stated on June 9, 2016, he received notification from The Western and Southern Life Insurance Company that his request had been processed. He stated he received a check for the cash surrender value of \$2,775 on the Appellant's behalf sometime after the notice, but he did not know the exact date. The Department's representative, Misty Fielder, stated that because the request for a withdrawal of the cash surrender value of the policy was not processed until after June 1, 2016, it was still considered a life insurance asset. She stated that once the Appellant received the check from the life insurance company, it was then considered to be "cash on hand" which was also a countable asset according to policy. The Appellant is over the asset limit, and the Department correctly denied her application for Long-Term Care Medicaid.

CONCLUSION OF LAW

Because the Appellant was over the asset limit allowed by policy for Long-Term Care Medicaid eligibility, the Department must deny the Appellant's application.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny the Appellant's Long-Term Care Medicaid application based on excessive assets for the program.

ENTERED this 16th Day of November 2016.

Natasha Jemerison
State Hearing Officer