



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

November 17, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-2954

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Angie Diaz, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2954

**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 16, 2016, on an appeal filed November 1, 2016

The matter before the Hearing Officer arises from the November 3, 2016 decision by the Respondent to deny the Appellant's benefits under the Long-Term Care Medicaid Program.

At the hearing, the Respondent appeared by Eva Marie Dawson, Economic Service Worker, WVDHHR, and Angie Diaz, Family Support Supervisor, WVDHHR. The Appellant was represented by his son, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- | | |
|-----|--|
| D-1 | West Virginia Income Maintenance Manual Chapter 17.2 |
| D-2 | ██████████ Online Banking Statement |
| D-3 | Receipts from ██████████ and ██████████ |
| D-4 | West Virginia Income Maintenance Manual Chapter 11.3 |
| D-5 | Notice of Decision dated November 2, 2016 |
| D-6 | Notice of Decision dated November 3, 2016 |

Appellant's Exhibits:

- | | |
|-----|---|
| A-1 | Timeline and summary of activities |
| A-2 | Verification Checklist dated October 21, 2016 |
| A-3 | Verification Checklist dated November 4, 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 November 1, 2016, the Appellant was notified verbally that his Long-Term Care Medicaid benefits had been denied for November 2016 due to excessive assets. The Department sent a written Notice of Decision to the Appellant on November 3, 2016 (D-6).
- 2) Eva Marie Dawson, Economic Service Worker (ESW) with the Department, testified that the Appellant applied for Long-Term Care benefits on October 21, 2016. At that time, the Department issued a Verification Checklist (A-2), requesting verification of assets and other items.
- 3) On October 31, 2016, the Department received a checking account statement, indicating that the Appellant's bank account balance was \$2,425.49 as of October 29, 2016 (see Exhibit D-2). ESW Dawson testified that the asset limit for Long-Term Care Medicaid for a one-person Assistance Group is \$2,000. Therefore, the Appellant's application was denied for November 2016.
- 4) [REDACTED] testified that he was not made aware of the \$2,000 asset limit during the initial application process, or he would have made certain that his father's assets fell beneath the asset limit as of November 2016. The original Verification Checklist issued by the Department (A-2) does not include information concerning the asset limit; however, a subsequent Verification Checklist issued on November 4, 2016 (A-3), specifies that the Appellant must provide verification that his assets are below \$2,000 by no later than November 3, 2016 to establish Medicaid eligibility for December 2016. [REDACTED]. [REDACTED] testified that a nursing home bed had been available for his father, but his father was not admitted to the facility. The Appellant has since been admitted to a hospital and is suffering from anxiety and depression. [REDACTED] provided a timeline of activities and a list of concerns (A-1) regarding the application process, including an alleged lack of direction and untimely response from the Department, which resulted in inconvenience, financial burden and stress.

ESW Dawson testified that it is her normal practice to inform individuals of the \$2,000 asset limit during the application process, and contended that the Appellant's representatives were provided with that information.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 11.3 (D-4) states that the asset limit for SSI-Related Medicaid is \$2,000 for a one-person Assistance Group.

Chapter 17.2.A.2 of the Manual (D-1) states that payment for nursing facility services begins on the earliest date the three following conditions are met simultaneously:

- The client is eligible for Medicaid; and

NOTE: If the client is eligible as an SSI-Related Medicaid client, his monthly spenddown is presumed to be met when the cost of his nursing facility care at the Medicaid rate exceeds his spenddown amount. Thus, his Medicaid eligibility begins the first day of the month of application or the first day of the month, up to 3 months prior to the month of application, when coverage is backdated.

- The client resides in a Medicaid-certified nursing facility; and

- There is a valid PAS or, for backdating purposes only, physician's progress notes or orders in the client's medical records.

Chapter 11.2.A of the Manual states that the asset eligibility determination for SSI-Related Medicaid coverage groups 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.

DISCUSSION

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 countable assets as \$2,425.49 as of the first moment of November 2016. While conflicting testimony was provided concerning the Appellant's awareness of the asset limit, there is no factual dispute that total assets for November 2016 exceeded the \$2,000 limit for the Long-Term Care Medicaid Program.

CONCLUSIONS OF LAW

Based on information provided during the hearing, the Department acted correctly in denying the Appellant's Long-Term Care Medicaid application for November 2016.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's action to deny the Appellant's Long-Term Care Medicaid benefits.

ENTERED this 17th Day of November 2016.

**Pamela L. Hinzman
State Hearing Officer**