



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

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

February 23, 2017



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1054

Dear Ms. [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.

This decision has been amended to correct Finding of Fact number four (4).

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: 17-BOR-1054**

**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 February 16, 2017, on an appeal filed January 11, 2017.

The matter before the Hearing Officer arises from the July 7, 2016 decision by the Respondent to deny Intellectual/Developmental Disabilities (I/DD) Waiver Medicaid for October 2016 due to excessive assets.

At the hearing, the Respondent appeared by Misty Fielder. The Appellant was represented by ██████████, ██████ Service Coordinator. Appearing as a witness for the Appellant was ██████████, ██████ Service Coordinator Supervisor. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual §17.40
- D-2 West Virginia Income Maintenance Manual §11.3
- D-3 West Virginia Income Maintenance Manual §11.4.C
- D-4 Copy of Consumer Credit Counseling Bank Statement for ██████████, dated October 1, 2016 through December 21, 2016

**Appellant's Exhibits:**

None

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) The Appellant is an active member of the Intellectual/Developmental Disabilities (I/DD) Waiver Program.
- 2) The Appellant is a recipient of I/DD Waiver Medicaid.
- 3) On October 1, 2016, the Appellant's accessible bank account balance was \$8,274.20. (D-4)
- 4) On January 12, 2017, the Appellant was notified that he was not eligible for I/DD Waiver Medicaid for October 2016, because his assets were more than is allowed for that benefit.
- 5) The Appellant was approved for I/DD Waiver Medicaid for November 2016 and ongoing.
- 6) The determination of countable assets for I/DD members is the same for SSI-Related Medicaid. (D-1)
- 7) The total amount of countable assets cannot exceed \$2,000 for an assistance group of one (1) for SSI-Related Medicaid. (D-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 §17.40 reads that the determination of countable assets for I/DD Waiver Program members is the same as for SSI-Related Medicaid.

## **DISCUSSION**

The Appellant was notified that he was not eligible for I/DD Waiver Medicaid for the month of October 2016, because he was over the asset limit. The Appellant's representative requested a fair hearing on his behalf to contest the Department's decision.

Policy states that an individual must meet the same asset test to qualify for I/DD Waiver Medicaid as required for SSI-Related Medicaid, and the asset limit is \$2,000 for a one-person Assistance Group. The Department calculated the Appellant's total assets for October 2016 as \$8,274.20.

The Appellant's representative, [REDACTED], testified that the Appellant is a member of the I/DD Waiver Program and is unable to manage his own finances. She stated Consumer Credit, an agency responsible for handling the Appellant's funds, was aware that the Appellant's account balance needed to stay below \$2,000. She added Consumer Credit does not provide a monthly balance to [REDACTED] so they were unaware that the Appellant's assets exceeded the asset limit in October.

The Department's representative, Misty Fielder, stated that although the Appellant did not handle his own finances, his assets still cannot exceed the limit set forth by policy. She stated the Appellant was denied for the month of October 2016. She added that the Appellant was approved for the following month and ongoing. The Appellant was over the asset limit for October 2016, and the Department correctly denied his application for I/DD Medicaid for that month.

## **CONCLUSION OF LAW**

Because the Appellant was over the \$2,000 asset limit allowed by policy for I/DD Medicaid eligibility, the Department was correct in its determination to deny his application for October 2016.

## **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to determine the Appellant was not eligible for I/DD Medicaid for October 2016 based on excessive assets for the program.

**ENTERED this 23<sup>rd</sup> Day of February 2017.**

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**Natasha Jemerison**  
**State Hearing Officer**