



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313
E-mail Address: raywoods@wvdhhr.org

Joe Manchin III
Governor

March 7, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 24, 2004. Your hearing request was based on the Department of Health and Human Resources' proposal to close your Medicaid case when your Period of Consideration expired.

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 Medicaid program is determined based on current regulations. One of these regulations reveals that 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 utilized to project countable income. If medical bills sufficient to satisfy the established spenddown are not submitted by the application processing deadline (30 days from application) the application is denied. Spenddown assistance groups are not redetermined and are closed at the end of the sixth month of the POC. The client must reapply for a new POC. (West Virginia Income Maintenance Manual Sections 16.9, 10.22 & 1.22)

Information submitted at the hearing revealed that your Medicaid Period of Consideration ended and you must reapply for benefits, meeting a new spenddown.

Therefore, it is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to close your Medicaid benefits based on expiration of your Period of Consideration.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: Board of Review
Nancy Law, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

NAME: _____, on behalf of _____

ADDRESS: _____

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 2, 2005 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 originally scheduled for September 10, 2004, but was rescheduled at the request of the Claimant's son. The hearing convened on September 24, 2004 on a timely appeal filed May 28, 2004.

It should be noted that Medicaid benefits have continued pending the results of this hearing.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The program entitled **Medicaid** is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

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:

Nancy Law, ESS, DHHR

Presiding at the hearing was Ray B. Woods Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in closing the Claimant's Medicaid benefits at the end of her Period of Consideration.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 2.4 and 10.22

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits

D-1 Hearing Summary

D-2 WV Income Maintenance Manual Section 2.4

Claimant's Exhibits

C-1 Hearing Summary from _____

VII. FINDINGS OF FACT:

- (1) _____ and her husband, _____, were receiving SSI-Related Medicaid based on their age/disability and income.
- (2) The couple's six-month Period of Consideration ended on May 31, 2004.
- (3) Ms. Law testified that Mrs. _____ was mailed a letter dated May 18, 2004 notifying her that the Period of Consideration was ending. Ms. Law said the Claimant did not reapply for Medicaid. The Claimant requested a hearing with continued benefits on May 28, 2004.
- (4) _____'s hearing summary (C-1) indicates his father is currently undergoing cancer treatments, while his mother is on kidney dialysis 10 hours per day, six days a week. He voiced concerns in his letter regarding the spenddown process.

VIII. CONCLUSIONS OF LAW

- (1) West Virginia Income Maintenance Manual Section 2.4 (D-2) states:
When the recipient's circumstances change to the point that he becomes ineligible, the Assistance Group is closed. There are instances in which a Medicaid Assistance Group is closed by the data system. This occurs when:
 - TM coverage expires
 - Medically Needy non-spenddown cases that are not redetermined in the sixth month of the POC, and
 - Medically Needy spenddown cases are closed at the end of the POC.
- (2) West Virginia Income Maintenance Manual Section 10.22 (D):
To receive a medical card, the monthly countable income of the needs group must not exceed the amount of the MNIL (Medically Needy Income Level). 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 six-month Period of Consideration (POC) until his income is at or below the MNIL for the needs group size, or until the POC expires. Once the client presents sufficient medical expenses to meet his spenddown obligation, medical expenses are entered in the data system according to the date incurred, i.e., oldest expense first. Eligibility begins

on the date that medical bills bring the spenddown amount to \$0. Medical expenses, which are not subject to payment by a third party and for which the client will not be reimbursed, are used to reduce or eliminate the spenddown.

- (3) West Virginia Income Maintenance Manual Section 10.22 (A):
Medically Needy cases have a fixed Period of Consideration (POC) and the total income for the six-month period is used to determine the spenddown amount.

IX. DECISION:

Policy is clear that Medically Needy spenddown cases are closed at the end of their six-month Period of Consideration. In order to receive continued benefits under the SSI-Related Medicaid Program, the Claimant must reapply and satisfy spenddown requirements for a new six-month POC.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to close the Claimant's Medicaid benefits since her Period of Consideration has elapsed.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29