



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**State Board of Review**  
**2699 Park Avenue, Suite 100**  
**Huntington, West Virginia 25704**  
**January 6, 2005**

**Bob Wise**  
**Governor**

**Paul L. Nusbaum**  
**Secretary**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_,

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 4, 2005. Your hearing request was based on the Department of Health and Human Resources' action to determine that a spenddown of \$8,220.60 must be met on your application for medical assistance under the SSI-related Medical Assistance Only (MAO) Program.

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 and benefit levels for the Medicaid Program are determined based on current regulations. One of these regulations is to receive a Medicaid card, the monthly countable income of the Needs Group must not exceed the amount of the MNIL. 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 (WV Income Maintenance Manual Section 10.22 ).

The information which was submitted at the hearing revealed that since your monthly countable net income exceeds the MNIL for a Needs Group of two (2), you must meet a spenddown of \$8,220.60 for the Period of Consideration of October 1, 2004 through March 31, 2005 prior to issuance of a medical card.

It is the decision of the State Hearing Officer to uphold the action of the Department to determine that a spenddown of \$8, 220.60 must be met on your application for medical assistance under the SSI-related Medical Assistance Only (MAO) Program.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Board of Review  
Louise Hunter, Dept. Hearing Rep.

# **WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES**

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

## **SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

### **I. INTRODUCTION**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on January 4, 2005 for Mr. \_\_\_\_\_.

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 convened on January 4, 2005 on a timely appeal filed November 11, 2005.

It should be noted here that any benefits under the SSI-related Medical Assistance Only Program (MAO) have been 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 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Dept. of Health & Human Resources administers the Medicaid Program in WV in accordance with Federal Regulations. The office of Medical Care is responsible for development of regulations to implement Federal and State requirements for the program. The Dept. of Health & Human Resources processes claims for reimbursement to providers participating in the program.

### **III. PARTICIPANTS**

1. \_\_\_\_\_, Claimant.
2. Louise Hunter, Dept. Hearing Rep.

Presiding at the hearing was Thomas M. Smith, 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 Department took the correct action to determine that a spenddown of \$8,220.60 must be met prior to issuance of a medical card under the SSI-related MAO Program.

## **V. APPLICABLE POLICY**

WV Income Maintenance Manual Sections 1.22, 10.22.

## **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED**

Exhibit #1 Copy of case comments (3 pages).

- " #2 Copy of verification checklist 11-10-04.
- " #3 Copy of eligibility determination printout..
- " #4 Copy of manual section 10.22 & 16.9 (14 pages).

## **VII. FINDINGS OF FACT**

1. Mr. \_\_\_\_\_ applied for the SSI-related MAO Program on 10-26-04 and it was determined that he would have a spenddown of \$8,220.20 for the Period of Consideration (POC) of 10-1-04 through 3-31-04 based on his Social Security Disability (RSDI) benefits of \$1009 per month and his wife's earned income of \$1376 less deduction of \$720 for work expense deduction (\$65 and 1/2 disregard for a total of \$655 for a total of \$1645 less the MNIL of \$275).

2. Mr. \_\_\_\_\_ provided copies of medical expenses on 10-26-04 which amounted to \$5980.43 which reduced the remaining spenddown amount to \$2240.17 and a letter was issued on 11-10-04 informing Mr. \_\_\_\_\_ that he had to meet the remaining spenddown of \$2240.17 by 11-25-04 (30 days after the date of his application) or his application would be denied.

3. Mr. \_\_\_\_\_ requested a hearing on 11-9-04 as he questioned the spenddown amount and the caseworker held the application pending the hearing decision and did not deny the application after the 30 days expired.

4. Mr. \_\_\_\_\_ questioned why \$1009 was being counted for his RSDI and stated that he only receives \$943 RSDI as he pays \$76 Medicare premium.

5. Mr. \_\_\_\_\_ testified that he had applied for his Medicare premium to be paid (through the QMB Program) and was denied but that it had been several months ago and the State Hearing Officer informed Mr. \_\_\_\_\_ that if it had been over 90 days ago, that issue could not be addressed in this hearing and that this hearing was scheduled to address the spenddown issue).

6. Mr. \_\_\_\_\_ testified that he last received a Medicaid card in June, 2004 and that he was paying his own medical bills since then.

7. Mr. \_\_\_\_\_ testified that his wife has to take him to [REDACTED] three (3) times a week and only makes about \$320 a week and that he does not understand why his previous spenddown was only \$5,000 and now it is almost \$9,000.

8. Mr. \_\_\_\_\_ testified that his medications cost \$500 a month.

9. Spenddown determination-\$1009 (RSDI) less \$20 SSI disregard + \$655 (earned income)=\$1645.10 monthly countable income less \$275 MNIL = \$1370.10 times six (6) months = \$8220.60 spenddown.

## CONCLUSIONS OF LAW

1. WV Income Maintenance Manual Section 10.22 D, 11 states, in part:

"To receive a Medicaid card, the monthly countable income of the Needs Group must not exceed the amount of the MNIL. 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 6-month Period of Consideration (POC), until his income is at or below the MNIL for the Needs Group until the POC expires.....

a. Procedures

The worker must determine the amount of the client's spenddown at the time of application based on information provided by the client.....He must also explain the spenddown process to the client during the intake interview. An ES-6A is attached to the verification checklist or ES-6 which notifies the client that an eligibility decision cannot be made until he meets the spenddown by providing proof of medical expenses. The verification checklist or ES-6 must also contain any other information the client must supply in order to determine eligibility.....If the client does not submit sufficient medical bills by the application processing deadline, the application is denied."

2. WV Income Maintenance Manual Section 10.22 C states, in part:

### DETERMINING ELIGIBILITY

Countable income is determined by subtracting any allowable disregards and deductions in Section A above from the total non-excluded gross income....Countable income is determined as follows:

NOTE: When income is deemed from one ineligible spouse, the ineligible spouse's income is added to client's income in Steps 1 and 2. When income is deemed from a parent (s), the predetermined deemed amount is added to the child's unearned income in Step 1.

Step 1: Determine the total non-excluded gross unearned income and subtract the \$20 Disregard, if applicable.

Step 2: Determine the total non-excluded earned income. Subtract the following in order:

- Remainder of SSI \$20 Disregard
- SSI \$65 Earned Income Disregard
- SSI Impairment-Related Expenses
- One-half of Remaining Earned Income
- SSI Work-related Expense Deductions (Blind persons only)
- Earnings Diverted to a PASS

Step 3: Add unearned income from Step 1 above.

Step 4: Subtract unearned income diverted to a PASS account, the Death Benefits deduction and, for children, the child support disregard..

The result is the total monthly countable income.

Step 5: Compare the amount in Step 4 to the MNIL for the appropriate number of persons.....

If the net countable monthly income is equal to or less than the appropriate MNIL, the AG is eligible without a spenddown. If it is in excess of the appropriate MNIL, the AG must meet a spenddown.”

## **VIII. DECISION**

Based on the evidence and testimony presented, the State Hearing Officer must uphold the action of the Department to determine that a spenddown of \$8220.60 must be met prior to issuance of a Medical card for the POC of 10-1-04 through 3-31-05. The Department was correct to use the claimants' RSDI income of \$1009 which includes the Medicare premium and to use the claimant's wife's earned income less allowable deductions to determine spenddown and to require that, when income exceeds the MNIL (Medically Needy Income Limit), the excess amount must be used to meet medical expenses prior to issuance of a medical card. Income must be used to determine eligibility according to WV Income Maintenance Manual Section 10.22 C listed in Section Conclusions of Law #2. The spenddown process requires that if an applicant's countable income after allowable deductions and disregards exceeds the MNIL, then the excess amount must be considered as available to pay medical expenses prior to issuance of a medical card. Therefore, the State Hearing Officer must uphold the Department's action to determine that a spenddown of \$8220.60 must be met prior to issuance of a medical card.

## **IX. RIGHT OF APPEAL**

See Attachment.

## **X. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.