



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 18, 2005

Dear Mr.____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 13, 2005. Your request was based on the Department of Health and Human Resources' action to discontinue your Medicaid coverage based on the application of a spenddown process in your case.

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 6-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 (AG) are not redetermined and are closed at the end of the 6th month of the POC. The client must reapply for a new POC. (West Virginia Income Maintenance Manual § 16.9, 10.22 & 1.22)

The information which was submitted at the hearing revealed that in September 2004 the agency became aware that your SSI benefits had stopped in 1999 and was replaced with Social Security Disability. You were notified the end of September that your SSI Medicaid benefits would end and that your eligibility for a Medicaid coverage would be based on your Social Security Disability status and that you would need to meet a Spenddown in order to be eligible. When you did not provided medical bills which could meet the Spenddown amount established in your case, the agency denied your continuing Medicaid coverage.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to close your SSI Medicaid case and to deny continuing coverage when your Spenddown amount was not met.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Ann Hubbard , DHHR

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

January 18, 2005

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded for _____ on January 13, 2005. 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 convened on January 13, 2005 on a timely appeal filed November 16, 2004

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.

SSI Related Medicaid is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as aged, disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

_____, Claimant
_____, Claimant's sister
Ann Hubbard , DHHR Representative

Presiding at the hearing was Sharon K. Yoho, 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 the discontinuance of the claimant's SSI Medicaid coverage and the application of a spenddown process to the SSI (related) Medicaid case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 1.22 and 10.22 (A), (B) and (D)
42 CFR § 435.831 Code of Federal Regulations:

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VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Departments' Exhibits:

- Exhibit # D1 - SSI & Social Security Disability status in 1999
- Exhibit # D2 - Notice of closure of SSI Medicaid
- Exhibit # D3 - Income Maintenance Manual § 16.6A
- Exhibit # D4 - Spenddown computations
- Exhibit # D5 - Request dated 09/27/04 for medical bills to meet Spenddown
- Exhibit # D6 - Notice of denial dated 10/26/04
- Exhibit # D7 - Income Maintenance Manual § 10.22 D-11
- Exhibit # D8 - Special Pharmacy denial
- Exhibit # D9 - Income Maintenance Manual § 16.1A

Claimants' Exhibits:

- Exhibit # C1 - Letter from [REDACTED] MD dated October 14, 2004
- Exhibit # C2 - Letter from [REDACTED] MD dated November 5, 2004
- Exhibit # C3 - Billing Statement from [REDACTED] Hospital dated December 6, 2004

VII. FINDINGS OF FACT:

- 1) In the Month of September 2004 the Agency became aware that the claimant's SSI benefits had stopped in the year of 1999.
- 2) The Agency advised the claimant in a letter dated September 27, 2004 that his SSI Medicaid benefits would stop. Another letter issued on the same date advised that medical bills would need to be provided to meet a Spenddown amount of \$3744. which would enable continued Medicaid coverage. A deadline of October 24, 2004 was set for the medical bills to be submitted.
- 3) On October 24, 2004 when medical bills had not been provided to meet the Spenddown amount, the agency issued another notice advising that Mr._____'s application for Medicaid had been denied due to the Spenddown amount not being met.
- 4) Mr.____ is a 31 year old male who has undergone a Renal Transplant procedure and is taking very expensive anti-rejection drugs as well as other medication. At the present time, Medicare is covering a big portion of the cost of his anti-rejection drugs, but the cost of his monthly medication could become an expense to him in excess of \$2000. The DHHR case worker did submit an application for a Special Pharmacy program for this claimant. The claimant was denied the services of this program due to the combined household income. He resides with his mother and her income was included for that program.
- 5) Mr.____ and his sister reached some understanding of the Medicaid program and the difference between how it is administered to SSI recipients and to those who do not received SSI. The Spenddown policies were explained during this hearing process. In the event that Medicare does cease to cover most of the anti-rejection drug costs, it is understood that the claimant's Spenddown amount might be reached.
- 6) Although this claimant understands the Spenddown process, he believes that Medicaid coverage should be provided to him due to his need for medication and continued medical attention following his Renal Transplant.

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VIII. CONCLUSIONS OF LAW:

- 1) West Virginia Income Maintenance Manual § 10.22 ©(11):
Countable (Medicaid) income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income.
- 2) West Virginia Income Maintenance Manual § 10.22 (D):
To receive a medical card, the monthly countable income of the need's group must not exceed the amount of the MNIL (Medically Needy Income Level). If the income of the need's 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 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 § 10.22 (A):
Medically Needy cases have a fixed Period of Consideration (POC) and the total income for the 6-month period is used to determine the spenddown amount.
- 4) West Virginia Income Maintenance Manual § 10.21 ©(11) (a):
If the client does not submit sufficient medical bills by the application processing deadline (30 days) (to satisfy the spenddown amount), the application is denied.
- 5) West Virginia Income Maintenance Manual § 1.22,N,2 states that Spenddown AG's are not redetermined and are closed at the end of the 6th month of the POC. The client must reapply for a new POC.

IX. DECISION:

Policy is clear, that an SSI- Related Medicaid case must have the household income evaluated and applied to a Spenddown process. Also clear, is that if the household's countable income exceeds the specified Medically Needy Income Levels, a Spenddown must be met prior to Medicaid participation. Policy also holds that Medicaid eligibility is based on a 6-month period of consideration and eligibility for medical coverage may be met for all or a portion of this 6-month period depending on at what point the Spenddown amount is met. Allowable medical expenses are entered in chronological order and eligibility for Medicaid coverage may only be established from the date the medical expense which met the Spenddown was incurred. The coverage continues to the end of the 6-month Period of Consideration. If the client does not submit sufficient medical bills to satisfy the established spenddown within 30 days (application processing deadline) the application is denied.

Evidence reveals that the claimant's SSI Medicaid coverage was correctly closed and his case was properly assessed as a Spenddown SSI-Related application. When the claimant did not provide an adequate amount of outstanding medical bills to meet the Spenddown amount, the application was denied. The claimant, during the hearing process, acknowledged an understanding of the Spenddown process and how the Spenddown amount was determined in his case. He however does not agree with the policy. The agency did follow policy correctly, in the discontinuance of the Medicaid coverage.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to close the claimant's SSI Medicaid case and to deny the SSI-Related Medicaid application when the Spenddown wasn't met.

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X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

