



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Martha Yeager Walker
Secretary

Joe Manchin III
Governor

Board of Review
4190 West Washington Street
Charleston, West Virginia 25313
Email: raywoods@wvdhhr.org
March 30, 2005

Dear Mr. _____;

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 25, 2005. Your hearing request was based on the Department of Health and Human Resources' (hereinafter The Department), proposal to close your SSI Related Medicaid 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 and benefit levels for SSI Related Medicaid are determined based on current regulations. One of these regulations specifies in part that:

"The maximum allowable assets for a one person household are \$2,000.00. (West Virginia Income Maintenance Manual Section 11.3 *MAXIMUM ALLOWABLE ASSETS*).

The information submitted at the hearing revealed that: You have excessive assets for the SSI Related Medicaid Program.

It is the decision of the State Hearing Officer, to uphold the proposal of the Department to close the SSI Related Medicaid case.

Sincerely,

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

cc: State Board of Review
Carol Halstead, Supervisor
[REDACTED] Esq.

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 March 30, 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 25, 2005 on a timely appeal filed December 15, 2004.

It should be noted here that, Mr. _____'s Medicaid Benefits were continued through the Fair Hearing process.

All persons giving testimony were placed under oath. This issue could not be resolved in a pre-hearing conference.

II. PROGRAM PURPOSE

The program entitled SSI Related 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 either aged, disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS

_____, Claimant

_____, Esq.

Carol Halstead, Supervisor - Kanawha District DHHR Office

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(S) TO BE DECIDED

Does Mr. _____ have excessive assets for the SSI Related Medical Card?

V. APPLICABLE POLICY

West Virginia Income Maintenance Manual Section 11.3 *MAXIMUM ALLOWABLE ASSETS*; West Virginia Income Maintenance Manual Section 11.4 *LIFE INSURANCE (Cash Surrender Value)*.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D-1 New England Financial Annual Statement of Values dated 04/04/03
- D-2 Case Comments dated 11/19/04 – 11/30/04
- D-3 Case Comments dated 12/02/04 – 12/14/04
- D-4 WVIMM Chapter 11.3 *MAXIMUM ALLOWABLE ASSETS*
- D-5 Confirmation Statement of Values dated 12/20/04
- D-6 Notice of Decision dated 12/01/04
- D-7 Hearing Summary
- D-8 Scheduling Notice dated 12/15/04
- D-9 Request for Hearing dated 12/03/04

VII. FINDINGS OF FACT

- Ms. Halstead read the following Hearing Summary:

"Mr. _____ was approved for Medicaid effective June 2004. He came in November 19, 2004 for a scheduled review of his case. He stated he had a life insurance policy of \$86,000.00 face value. He was asked to verify the cash surrender value. He brought in Your Annual Statement of Values from the [REDACTED] This shows a cash surrender value of \$14,505.78 after surrender charges are deducted. This exceeds the allowable asset level.

Mr. _____ requested this fair hearing on December 3, 2004. He requested benefits be restored. His medical coverage was reopened."

- Mr. _____ provided the following testimony:
 - Money was withdrawn from the life insurance policy to repay his former employer to see doctor's in [REDACTED] He repaid other individuals for daily living expenses.
 - Currently resides with fiancé
 - Unemployed since April 2004
 - The life insurance policy is the only asset.
 - If the policy decreases below the current \$2,300.00 or 8% of the policy, it would be cancelled.
 - He has no other medical insurance other than the medical card.
 - A scheduled appointment to the University of [REDACTED] was cancelled by the hospital because Mr. _____ did not have any insurance. It was necessary for him to borrow \$2,000.00 to pay the physician's, before he could be seen.
 - Mr. _____ is diagnosed with cirrhosis of the liver. He does not drink alcohol. The cause of the disease is unknown.

- Mr. [REDACTED] was given an opportunity to submit a written closing within ten days of the hearing. A written closing was not received from Mr. [REDACTED] as of the date of this decision.
- Prior to the beginning of the hearing, Mr. [REDACTED] asked the State Hearing Officer if there were any exceptions to the policy. Mr. [REDACTED] and Mr. [REDACTED] were advised that if the issue were 'excessive assets', the ruling would be in favor of the Department. There are no exceptions to the policy. Ms. Halstead agreed with the statement.

VIII. CONCLUSIONS OF LAW

- West Virginia Income Maintenance Manual Section 11.4 T *LIFE INSURANCE (Cash Surrender Value)* states,

SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB, QI-1 and QI-2: If the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of \$1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

- West Virginia Income Maintenance Manual Section 11.3 *MAXIMUM ALLOWABLE ASSETS* states in part, "The maximum allowable assets for a one person household is \$2,000.00.

VIII. DECISION

According to the West Virginia Income Maintenance Manual Section 11.3 *MAXIMUM ALLOWABLE ASSETS* it states in part, "The maximum allowable assets for a one person household are \$2,000.00. The Confirmation Statement of Values (Exhibit D-5) dated December 20, 2004, lists the cash value of the life insurance policy at \$2,366.21.

It is the decision of this State Hearing Officer, to uphold the Department's proposal to close the SSI Medicaid case. The Department's proposal in this particular matter is proper and correct.

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.