



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

March 2, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 24, 2005. Your Hearing request was based on the Department of Health and Human Resources' action to deny your application for Medicaid.

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 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. (West Virginia Income Maintenance Manual ' 10.22 & 1.22)

The information which was submitted at the hearing revealed that your countable income continues to exceed the current standard resulting in the application of a spenddown to your Medicaid case. Policy provides that Spenddown AG's (Assistance Groups) are not redetermined and are closed at the end of the 6th month of the POC. You must apply for a new POC and meet the Spenddown amount before eligibility can be established.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for Medicaid benefits.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Lisa Heater, ESW, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
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 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 convened on January 24, 2005 on a timely appeal filed December 10, 2004.

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

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

_____, Claimant's sister

Lisa Heater, ESW, DHHR Representative

Presiding at the hearing was Thomas E. Arnett, 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 proposing closure of the Claimant=s Medicaid case and denying her application for a new Period of Consideration (POC).

V. APPLICABLE POLICY:

Wets Virginia Income Maintenance Manual ' 1.22 and 10.22
42 CFR ' 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

DHHR-1	Hearing request received 12/8/04.
DHHR-2	Notice of Denial dated 12/13/04.
DHHR-3	Proof of Income..
DHHR-4	Spenddown Calculation.
DHHR-5	Medical Bills used in past Spenddown Periods.
DHHR-6	WVIMM Policy Manual, Chapter 10.22, D,11
DHHR-7	WVIMM Policy Manual, Chapter 10, Appendix A

VII. FINDINGS OF FACTS CONCLUSIONS OF LAW:

- (1) The Claimant is an active recipient of Medicaid benefits through the Department and was undergoing a redetermination for Medicaid eligibility in December 2004.
- (2) On December 13, 2004, the Department sent a Notice of Decision (DHHR-2) that states in pertinent part:

Action: Your application for Medicaid dated 12/10/04 has been denied.

Reason: You stated you do not have medical bills to meet your spenddown.
- (3) The Department submitted exhibits DHHR-3 (Proof of Income) and DHHR-4 (Spenddown Calculation) to confirm that the Claimant's eligibility can only be established once her spenddown amount of \$3228.00 is met.
- (4) Lisa Heater testified that the Claimant's income exceeds the MNIL found in Appendix A of Chapter 10. She indicated that she has qualified for Medicaid in the past by meeting her required spenddown amount (DHHR-5) but indicated that she must apply for a new POC and meet the required spenddown amount every six months to remain eligible. She explained the calculation of the spenddown amount (DHHR-4) and stated that no payment or part of a bill that is used to make a client eligible may be used again.
- (5) The Claimant testified that she believes it is unfair to require an individual to go out and run-up a spenddown to establish eligibility for Medicaid. She stated that she is financially unable to pay these bills and feels that it is very unfair.
- (6) West Virginia Income Maintenance Manual ' 10.22 (C)(11):
Countable (Medicaid) income is determined by subtracting any allowable disregards and deductions... from the total non-excluded gross income.
- (7) West Virginia Income Maintenance Manual ' 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 Aspend@ 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.

- (8) West Virginia Income Maintenance Manual ' 10.22(B) and Appendix A of Chapter 10 reveal that the disregard for unearned income is \$20 monthly and the protected income level for a 1 person benefit group is \$200 monthly.
- (9) 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.
- (10) West Virginia Income Maintenance Manual ' 1.22 & 10.22 (D)(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.

VIII. DECISION:

Policy is clear in that if the household's countable income exceeds specified levels (MNIL), 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 any spenddown 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 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.

The Claimant's monthly countable income is \$758 and the Medically Needy Income Level for a 1 person benefit group is \$200. After subtracting the \$200 (MNIL) protected income level and the \$20 disregard, a monthly income of \$538 remains. The remaining income amount (\$538) is then multiplied by the 6 month period of consideration resulting in a spenddown amount of \$3,228.00. Evidence submitted at the hearing reveals that Medicaid eligibility could not be established as the Claimant failed to submit medical bills sufficient to meet the required spenddown amount.

It is therefore the decision of the State Hearing Examiner to **uphold** the action of the Department in denying your application for Medicaid benefits. Medicaid benefits will terminate effective March 31, 2005.

XIX. RIGHT OF APPEAL:

See Attachment.

X. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29