



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 13, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 11, 2005. Your hearing request was based on the Department of Health and Human Resources' action to determine a spenddown on your AFDC-related Medical Assistance Only Program case.

In arriving at a decision, the State Hearings 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 AFDC-related Medical Assistance Only Program is based on current policy and regulations. Some of these regulations state as follows: countable income is determined by applying the income disregards and deductions to the non-excluded gross income of the Income Group. The remaining income is then compared to the MNIL for the appropriate Needs Group size. An AFDC-Related Medicaid application is not denied solely on the basis of excess income. Instead, the spenddown provision is applied. (WV Income Maintenance Manual Section 10.21 C).

The information which was submitted at your hearing revealed that you must meet a spenddown of \$1440.36 prior to issuance of a medical card.

It is the decision of the State Hearings Officer to uphold the action of the Department to determine a spenddown on your AFDC-related Medical Assistance Only Program case.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Pam Schwarz, Dept. Hearing Rep.

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

Claimant,

v. Action Number:

**West Virginia Department of
Health and Human Resources.**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on July 11, 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 convened on July 11, 2005 on a timely appeal, filed May 2, 2005.

It should be noted here that the claimant's benefits are pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled AFDC-related Medical Assistance Only (MAO) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Medicaid categorically related Aid to Families with Dependent Children Program is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

1. _____, Claimant
2. Pam Schwarz, Dept. Hearing Rep.

Presiding at the Hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department took the correct action to determine that a spenddown must be met on the AFDC-related Medical Assistance Only case prior to issuance of a medical card.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 10.21, 16.8.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of appointment letter dated 3-21-04 (2 pages).
- D-2 Copy of WV Income Maintenance Manual Section 1.2 B (2 pages).
- D-3 Copy of notification letter dated 4-18-05 (2 pages).
- D-4 Copy of verification checklist letter dated 4-26-05 (5 pages).
- D-5 Copy of hearing request dated 5-4-05.
- D-6 Copy of hearing appointment letter.
- D-7 Copy of WV Income Maintenance Manual Section 16.8 (2 pages).
- D-8 Copy of WV Income Maintenance Manual Section 10.21 (4 pages)

VII. FINDINGS OF FACT:

1. The claimant was a recipient of medical assistance under the AFDC-related Medical Assistance Only (MAO) Program when a review of eligibility was due in the month of April, 2005 and an appointment letter was mailed for an appointment on 4-8-05 (Exhibit #D-1).
2. The claimant failed to keep the appointment scheduled for 4-8-05 and notification of case closure was issued on 4-18-05 (Exhibit #D-3) and the case was closed effective April 30, 2005.
3. The claimant reapplied for AFDC-related MAO Program on 4-26-05 and it was determined that she had Worker's Compensation income of \$620.06 per month which resulted in a spenddown of \$1440.36 and a verification checklist letter was issued on 4-26-05 notifying the claimant that medical bills must be provided to meet the spenddown by 5-25-05 or the application would be denied (Exhibit #D-4).
4. The claimant verbally requested a hearing on 5-2-05 and action on the application was pended due to the hearing request.

5. The claimant testified that she receives \$567 per month from Worker's Compensation (\$288 biweekly) and that her husband is disabled and that is the only family income and that her medications are not covered.

6. The claimant testified that they have to pay utilities, auto insurance, and other expenses and must buy food and cannot afford medical expenses.

7. WV Income Maintenance Manual Section 10.21 C states, in part:

"Countable income is determined by applying the income disregards and deductions in item A above to the non-excluded gross income of the Income Group. To determine who is included in the Income Group, see Chapter 9. The remaining income is then compared to the MNIL for the appropriate Needs Group size. An AFDC-Related Medicaid application is not denied solely on the basis of excess income. Instead, the spenddown provision is applied.

The following steps are used to determine the countable income of the Income Group.

Step 1: Determine the Income Group's non-excluded gross earned income. Do not count the income of a child's sibling or count any child's income for this parent(s).

Step 2: Subtract the AFDC Medicaid Standard Work Deduction for each working person.

Step 3: Subtract the AFDC Medicaid Dependent Care Deduction up to the maximum allowable amounts. The maximum amounts of the deduction are determined as for AFDC Medicaid. See Section 10.6.

Step 4: Add the non-excluded gross unearned income of the Income Group to the amount remaining from Step 3. This includes the child's countable child support. Do not count the income of a child's sibling or count any child's income for his parent(s).

Step 5: Determine the appropriate MNIL for the Needs Group.

Step 6: Compare the result of Step 4 to the amount in Step 5.

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. CONCLUSIONS OF LAW:

- 1) WV Income Maintenance Manual Section 10.21 C requires monthly income which exceeds the MNIL for the Needs Group to be used to meet medical expenses prior to issuance of a medical card under the AFDC-Related MAO Program. The claimant's monthly gross income is \$620.06 which, after subtracting the Standard Work Deduction, leaves \$530.06 to be applied toward the MNIL of \$290 for a two (2) person Needs Group. The remaining \$530.06 less the \$290 MNIL leaves \$240.06 monthly income to be applied toward the six (6) month Period of Consideration of 5-1-05

through 10-31-05 which results in a six (6) month spenddown of \$1440.36 (6 X \$240.06). The Department has correctly determined a spenddown of \$1440.36 for the claimant.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to determine a spenddown of \$1440.36.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of July, 2005.

**Thomas M. Smith
State Hearing Officer**