



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 30, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 8, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for SSI-Related Medicaid based on excessive assets.

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 SSI-Related is based on current policy and regulations. Some of these regulations state that the maximum allowable asset limit for an SSI-Related Medicaid assistance group of one (1) is \$2000.

The information which was submitted at your hearing revealed that you have real property (non-homestead) that is valued in excess of \$2000. This property fails to meet any of the exclusion provision allowed in policy, and must therefore count as an asset.

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

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Lisa Heater, ESW, DHHR

**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 September 30, 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 September 8, 2005 on a timely appeal filed May 3, 2005.

II. PROGRAM PURPOSE:

The Program entitled SSI-Related Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The SSI Related Medicaid Program 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 friend
Lisa Heater, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 was correct in denying the Claimant's application for SSI-Related Medicaid based on excessive assets.

V. APPLICABLE POLICY:

WV Income Maintenance Manual, Chapter 11.3 & 11.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHHR-1	Hearing request received by the Department on 5/3/05
DHHR-2	Notice of Decision dated 4/1/05
DHHR-3	Verification of Real Property Owned by the Claimant
DHHR-4	WVIMM 11.3
DHHR-5	WVIMM 11.4.CC.3c

VII. FINDINGS OF FACT:

- 1) In response to a March 21, 2005 application for SSI-Related Medicaid, the Department sent the Claimant a Notice of Decision dated April 1, 2005 (DHHR-2). This notice states in pertinent part:

Action: Your 3/21/05 application for SSI-Related Medicaid for the Aged/ Blind and Disabled has been denied.

Reason: The amount of assets is more than is allowed for this benefit.

- 2) The Department submitted a copy of the Claimant's property assessment, tax year 2005, from the ██████ County Assessors Office (DHHR-3). The assessor's office assessed the Claimant's real property at a total market value of \$32,400, which is 60% of its actual value (\$54,000). The Department contends that this property cannot be excluded as homestead property because it is unoccupied and it fails to meet any of the other property exclusion provisions in policy.
- 3) The Claimant testified that her property is not worth the amount it was assessed at and she does not believe she would be able to sale it. The land is on a hillside and the foundation of the home is cracked. She stated that the home is uninhabitable.
- 4) West Virginia Income Maintenance Manual, Chapter 11.3 provides that the maximum allowable asset limit for an AG (assistance group) of one (1) is \$2,000.

- 5) West Virginia Income Maintenance Manual, Chapter 11.4.CC, addresses real property and when it is counted as an asset. Exclusions consist of - an individual's homestead, this includes the dwelling and the land on which the dwelling rests, income producing property and property that is necessary for self-support. The equity in property, not otherwise excluded, is an asset.

VIII. CONCLUSIONS OF LAW:

- 1) The maximum allowable asset limit for an SSI-Related Medicaid AG (assistance group) of one (1) is \$2,000.
- 2) The Claimant's non-homestead property fails to meet any of the exclusion provisions provided in policy and must therefore count as an asset.
- 3) While the Claimant questions the actual value of the real property in question, the current assessed value clearly exceeds the maximum allowable asset limit of \$2000.

IX. DECISION:

After reviewing the evidence and the applicable policy and regulations, it is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for SSI-Related Medicaid based on excessive assets.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of September, 2005.

**Thomas E. Arnett
State Hearing Officer**