



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

Martha Yeager Walker
Secretary

October 3, 2005

Dear Mr. _____:

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 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 SSI-Related Medicaid is based on current regulations. One of these regulations states that individuals who otherwise meet eligibility requirements but 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 ' 1.22, 16.9 & 10.22)

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 an existing spenddown AG (Assistance Group) is not redetermined and is 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 Hearings Officer to **uphold** the action of the Department in denying your application for Medicaid.

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
BOARD OF REVIEW**

_____,
Claimant,

v.

Action Number: 05-BOR-5737

**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 October 3, 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 4, 2005.

It should be noted that Medicaid benefits have continued.

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
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 agency was correct in their action to deny the Claimant's application for Medicaid.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 1.22, 16.9 and 10.22 (A), (B) and (D)
42 CFR ' 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHHR-1	Claimant's Hearing Request
DHHR-2	Notice of Denial dated 5/5/05
DHHR-3	Claimant's verified income
DHHR-4	WVIMM 10.22.d.11
DHHR-5	WVIMM, Appendix A
DHHR-6	Medical bills used to meet previous Spenddown

VII. FINDINGS OF FACT:

- 1) On May 5, 2005, the Department sent the Claimant a Notice of Decision which includes the following pertinent information:

Action: Your application for Medicaid dated 4/4/05 has been denied.

Reason: You failed to meet your spenddown with 30 days from the application date.

This letter states medical bills in the amount of \$5406 must be submitted in order to meet the required spenddown amount.

- 2) The Claimant was a recipient of SSI-Related Medicaid based on a spenddown at the time of application, however, his period of consideration (POC) from when he last met a Medicaid Spenddown (November 2004 thru April 2005) was coming to an end.
- 3) Lisa Heater testified that the Claimant's income, verified in DHHR-3, continues to be in excess of the MNIL and as a result, the spenddown provision still applies to his case. Ms. Heater stated that while the Claimant has submitted medical bills to meet a previous spenddown (DHHR-6), he has not submitted any medicals bills that can be applied toward the current spenddown amount.

- down
- 4) The amount of the Spenddown as well as the Spenddown procedure was uncontested by the Claimant. He contends that he still needs medical coverage and he has been unable to accrue medical bills while he has been receiving Medicaid coverage.
 - 5) West Virginia Income Maintenance Manual ' 1.22 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.
 - 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) states in pertinent part:
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 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 (A) & B:
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. The disregard for unearned income is \$20 monthly and the protected income level for a 1 person benefit group (MNIL) is \$200 monthly. The Claimant's income, less \$200 (MNIL), less \$20 (unearned income deduction), multiplied by 6 (the POC) determines the amount of the spenddown.
 - 9) West Virginia Income Maintenance Manual ' 10.21 (C)(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. CONCLUSIONS OF LAW:

- 1) 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.

- 2) Evidence reveals that the Claimant applied for a new POC but failed to submit medical bills sufficient to satisfy the spenddown amount within the 30-day application processing deadline.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of October 2005.

**Thomas E. Arnett
State Hearing Officer**