



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 11, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 23, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your SSI Medicaid.

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 Medicaid Program is determined based on current regulations. One of these regulations specifies that SSI recipients receive Medicaid coverage under the West Virginia Medicaid Program on the basis of their eligibility for SSI. The West Virginia Department of Health and Human Resources depends on information from the Social Security Administration in certifying Medicaid cases under this coverage group. (West Virginia Income Maintenance Manual ' 16.6).

The information submitted at your hearing reveals that you are no longer receiving SSI. As a result, you are not eligible to participate in the SSI Medicaid Program.

It is the decision of the State Hearings Officer to **uphold** the Department's proposal to deny/terminate your SSI Medicaid benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Mary Myers, ESW, DHHR

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

_____,
Claimant,

Action Number: 05-BOR-5904

**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 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 originally scheduled for July 14, 2005, but was rescheduled and convened on September 23, 2005 on a timely appeal, filed May 25, 2005.

It should be noted here that the Claimant's benefits have continued pending a hearing decision.

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.

Medicaid for Recipients of SSI is a segment of the department's 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 and who are eligible for Supplemental Security Income benefits (SSI) as determined by the Social Security Administration.

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
Mary Myers, 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 is correct in their proposal to terminate the Claimant's Medicaid benefits under the SSI Medicaid Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 1.22, 9.10, 16.9, 10.14, and 10.22 (A), (B) and (D)
42 CFR ' 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Hearing Summary
- D-2 Notice of Decision dated 5/16/05
- D-3 WVIMM 9.10, 10.22, 16.9 & 10.14
- D-4 Case Comments from 2/18/05 thru 6/1/05
- D-5 Notice of Decision dated 6/14/05

VII. FINDINGS OF FACT:

- 1) The Department received verification from the Social Security Administration (SSA) that the Claimant's SSI was terminated effective December 31, 2004 when he became eligible for Social Security benefits in the amount of \$1104 per month. As a result, the Claimant's SSI Medicaid was terminated by the Department effective January 31, 2005.
- 2) The Claimant returned to the Department on May 13, 2005 and completed an application for SSI Medicaid and SSI-Related Medicaid based on a disability.
- 3) The Claimant was notified in a Notice of Decision dated May 16, 2005 (D-2) that his application for SSI Medicaid had been denied. The reason for the denial states – "Individual is not eligible for this type of Medicaid due to loss of SSI payment."

- 4) On June 14, 2005, the Department sent a Notice of Decision (D-5) to the Claimant advising that his application for SSI-Related Medicaid was denied. This notice includes some of the following pertinent information:

Action: Your application for Medicaid dated 5/13/05 has been denied.

Reason: You failed to verify the amount of your medical bills.

The amount of your spenddown is \$5304.

- 5) The Department incorrectly reinstated the Claimant's SSI Medicaid following his May 25, 2005 appeal, however, benefits have continued pending the results of this hearing.
- 6) Evidence presented by the Department indicates that the Claimant's application for SSI Medicaid was denied because he does not receive SSI, and while he is eligible for SSI-Related Medicaid, the spenddown provision must be applied due to the amount of his Social Security benefits. Once an application for SSI-Related Medicaid is made, the spenddown amount (\$5304) must be met within 30-days of application or the application is denied.
- 7) West Virginia Income Maintenance Manual, Chapter 16.6 (A):
The amendment to the Social Security Act which established SSI and subsequent rules and regulations gave the states some options regarding Medicaid coverage for SSI recipients. West Virginia elected to cover all SSI recipients and to accept SSA's determination of eligibility for SSI as the sole eligibility determination for Medicaid (for Recipients of SSI).

Consequently, there is no application or eligibility determination process for SSI Medicaid. Instead the Department depends upon SSA for the information needed to open and evaluate continuing eligibility for SSI Medicaid cases.

- 8) 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.
- 9) 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 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.

- 10) 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) In accordance with West Virginia Income Maintenance Manual, the Department has confirmed that the Claimant is no longer a recipient of SSI and therefore correctly determined that the Claimant is not eligible for SSI Medicaid.
- 2) The Department evaluated the Claimant for participation in the SSI-Related Medicaid Program and correctly applied the spenddown provision to the Claimant's case. Whereas medical bills sufficient to meet the spenddown amount were not submitted within 30-days from the date of application, the Claimant's application for SSI-Related Medicaid was appropriately denied.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department in their proposal to deny/terminate the Claimant's SSI Medicaid case.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11th Day of October, 2005.

**Thomas E. Arnett
State Hearing Officer**