



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 9, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 3, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to discontinue Medicaid coverage which was provided due to you as an SSI recipient.

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 Card is based on current policy and regulations. Some of these regulations state as follows: 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 Assistance Groups (AG) 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 § 16.9, 10.22 & 1.22).

The information, which was submitted at your hearing, revealed that SSI benefits had ended and the Department accurately proposed to close Medicaid coverage and assess continued eligibility based on Spenddown policies.

It is the decision of the State Hearings Officer to uphold the action of the Department to discontinue SSI determined Medicaid coverage.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Ann Hubbard, 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 August 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 August 3, 2005 on a timely appeal, filed May 25, 2005.

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

II. PROGRAM PURPOSE:

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

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

Claimant's Witnesses:

_____, claimant
_____, claimant's mother
_____, claimant's step father

Department's Witnesses:

Susan Layman, Income Maintenance Worker DHHR

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the agency was correct in their proposed discontinuance of the Medicaid benefits provided as an SSI recipient and assessing coverage under the Spenddown Medicaid policies.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 10.22 and 16.6.
42 CFR § 435.831 Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 SSA State Data Exchange dated May 11, 2005
D-2 Notification of proposed closure of Medicaid dated May 18, 2005
D-3 WV Income Maintenance Manual Chapter 16.6
D-4 WV Income Maintenance Manual Chapter 10.22
D-5 SSA State Data Exchange dated June 23, 2005

VII. FINDINGS OF FACT:

- 1) Mr. _____ had been an active recipient of SSI benefits through the Social Security Administration (SSA) and therefore; he was an active Medicaid recipient.
- 2) On May 11, 2005, the Agency received a computer data exchange from the SSA advising that Mr. _____ was no longer receiving SSI benefits.
- 3) The Agency issued a notice dated May 18, 2005 of the proposal to discontinue Mr. _____'s Medicaid benefits. The notice advised that the reason for the closure was his no longer being an active SSI recipient.

- 4) The claimant requested a hearing on May 25, 2005 and benefits have been continued pending this hearing decision.
- 5) On June 23, 2005, the Agency received another data exchange from SSA that reported the claimant's Social Security payment to be \$957.
- 6) Mr._____ 's Social Security income is in excess of the Medically Needy Income Level, MNIL, and a Spenddown process would have to be applied in determining continued eligibility for Medicaid outside of the SSI program. Mr._____ has not yet applied for this type of Medicaid coverage.
- 7) Ms. Hubbard explained the Spenddown policies and procedures to the claimant and his parents.
- 8) West Virginia Income Maintenance Manual § 16.6: Specific Medicaid Requirements Categorically Needy, Mandatory – For Aged, Blind or Disabled
NOTE: No Categorically Needy coverage group is subject to spenddown provision.
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.
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.
- 10) West Virginia Income Maintenance Manual § 10.22 (D): Spenddown
To receive a medical card, the monthly countable income of the need's group must not exceed the amount of the MNIL (Medically Needy Income Level). If the income of the need's group exceeds the MNIL, the client has an opportunity to "spend" 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.
- 11) West Virginia Income Maintenance Manual § 10.21 ©)(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.

12) 42 §435.831 Code of Federal Regulations:

The agency must use a prospective period not more than 6 months to compute income. If countable income exceeds the income standard, the agency must deduct from income.....incurred medical expenses that are not subject to payment by a third party.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 16.6 that an active recipient of SSI is automatically eligible for a Medicaid card. The worker begins the Medicaid eligibility after the receipt of a data exchange from the SSA advising of the onset of SSI benefits. Policy also stipulates that the Department depends on information from SSA to determine continued eligibility. The Agency followed this policy in the opening and the proposed closure of Mr. _____'s Medicaid benefits.
- 2) SSI-Related policy in Chapter 10.22 dictates that continued Medicaid coverage for the disabled, non-recipient of SSI, would have to be determined through Spenddown provisions.

IX. DECISION:

Evidence and testimony given at this hearing clearly reveals that the Claimant's Medicaid coverage under the SSI recipient program should have ended when his active SSI status ended. It is the ruling of this Hearing Officer to **uphold** the agency in their proposal to discontinue Medicaid coverage and to apply Spenddown provisions in determining further eligibility.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of August 2005.

Sharon K. Yoho
State Hearing Officer