



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton WV 26354
August 25, 2005

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 13, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to apply a spenddown in determining to your Medicaid eligibility.

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 Dept. of Health and Human Resources. These 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 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 ~~A~~spenddown@ this excess amount in order to qualify for coverage. For Medicaid purposes a 6 month period of consideration is utilized to project countable income. (West Virginia Income Maintenance Manual ' 10.22)

The information which was submitted at the hearing revealed that your countable income exceeds the current standard, resulting in a spenddown.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to apply a "spenddown" in determining your Medicaid eligibility. You must meet a "spenddown" to continue your Medicaid eligibility.

Sincerely,

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
Michael Phillips

**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 EXAMINER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on August 25, 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 convened on July 13, 2005 on a timely appeal filed June 21, 2005. All persons giving testimony were placed under oath.

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

Michael Phillips, ESS, Agency Representative.

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency is correct in proposing to apply a spenddown in determining the claimant's Medicaid eligibility?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 9.19 and 10.22 (A), (B) and (D)
42 CFR ' 435.602 & 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- E-1 Notification, Closure of Spenddown case, 6/17/05
- E-2 Combined Application and Review Form, 6/21/05
- E-3 Notification, FS and Medicaid Spenddown, 6/22/05
- E-4 WVIMM 10.22
- C-1 Statement, Barbara Weaner, MSN, 7/13/05

VII. FINDINGS OF FACT:

(1) The claimant received notification of Medicaid case closure mailed 6/17/05 (E-1). This notice indicated that the time limit for Medicaid coverage would end 6/30/05 and he would need to reapply for coverage.

(2) The claimant reapplied 6/21/05 (E-2) and was notified in a notice mailed 6/22/05 that a spenddown of \$2634 had been applied.

(3) The claimant requested a hearing 6/22/05 and continued benefits during the hearing process.

(4) During the hearing the Exhibits as noted in Section VI above were accepted.

(5) Testimony was heard from the individuals listed in Section III above.

(6) Exhibit E-2 reveals that the claimant's income consists of \$659 in Social Security benefits.

(7) Testimony from the agency reveals that "old medical bills" had been used to meet prior spenddowns and there are currently no bills that have not already been used for this purpose.

(8) The claimant stated that he has been on dialysis 13 years- 3- 4 times per week. He currently goes to [REDACTED] for treatment. He will accumulate no medical expenses as QMB pays 20% and Medicare 80% of his treatment. He needs a Medicaid card for medication and transportation. His medication runs \$400-500 monthly.

(9) West Virginia Income Maintenance Manual ' 10.22 (C) states in part:
Countable (Medicaid) income is determined by subtracting any allowable disregards and deductions... from the total non-excluded gross income.

(10) West Virginia Income Maintenance Manual ' 10.22 (D) (11) states in 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@~~ spend 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 ' 10.22(B) and Appendix A of Chapter 10 reveal that the monthly income disregard for unearned income is \$20 and the earned income disregard is \$65 and 2 of that remaining. The protected income level (MNIL) for a 1 person group is \$200 monthly.

(12) West Virginia Income Maintenance Manual ' 10.22 (A) states in part:
... 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.

(5) 42 CFR ' 435.831 Code of Federal Regulations reads in part:
The agency must use a prospective period of 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 reveals that for purposes of determining Medicaid eligibility countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. Evidence confirms the claimant's monthly income is \$659 in SSA benefits.

(2) Policy reveals that deductions from income consist of \$20 from unearned income. Applying this to the claimant's income results in countable monthly income of \$639.

(3) Policy reveals that countable income in excess of the Medically Needy Income Level (MNIL) for the assistance group is considered in determining eligibility. The MNIL for a 1 person household is \$200. Applying this to the claimant's income results in a remainder of \$439- monthly excess income.

(4) Policy and regulations hold that Medicaid eligibility is determined on a 6 month basis. When applying the 6 month rule to the claimant's monthly countable income of \$439, a "spenddown" of \$2634 results- which is in agreement with the agency's determination.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency in applying a spenddown in determining the claimant's Medicaid eligibility.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 25th Day of August, 2005

RON ANGLIN
State Hearing Examiner