



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 12, 2005

Dear Mr.____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 9, 2005. Your hearing request was based on the Department of Health and Human Resources' action to close your Qualified Individual I Medicaid case.

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 Qualified Individual I Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: income is greater than 120% FPL but less than or equal to 135% FPL (WV Income Maintenance Manual Section 10.16 B).

The information which was submitted at your hearing revealed that your monthly countable income of \$1089 exceeds the maximum allowable income limit of \$1077 which is 135% of the FPL.

It is the decision of the State Hearings Officer to uphold the action of the Department to close your Qualified Individual I Medicaid case.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Brenda Bailey, Department Hearing Rep.

**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 9, 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 9, 2005 on a timely appeal, filed August 12, 2005.

It should be noted here that any benefits under the Qualified Individual I Medicaid Program have been discontinued pending a hearing decision.

II. PROGRAM PURPOSE:

The Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified Individuals (QI-1 and QI-2) Programs provide limited coverage under the Medicaid Program for eligible individuals or couples who are eligible for Medicare, Part A and who meet specified income tests. The QMBV program has a lower maximum income level and provides coverage of all Medicare co-insurance and deductibles as well as payment of the Medicare premium. SLIMB and QI-1 have higher maximum income levels and provide only for the payment of the Medicare Part B premium. The maximum income level for QI-2 is 175% of the Federal Poverty Level. This program pays for a portion of the Medicare premium.

III. PARTICIPANTS:

1. _____, Claimant.

2. Brenda Bailey, Dept. Hearing Rep.

Presiding at the Hearing was Thomas M. Smith, 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 took the correct action to close the Qualified Individual I Medicaid Program case effective August 31, 2005.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Sections 9.12, 10.6, 10.22, 10.16 E, App. A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- A Copy of hearing summary (2 pages).
- B Copy of combined application/review form 7-15-05 (33 pages).
- C Copy of notification letter dated 8-15-05 (3 pages).
- D Copy of WV Income Maintenance Manual Sections 10.16, 9.12, App. A (6 pages).
- E Copy of WV SHIP brochure (2 pages).

Claimant's Exhibits:

- CI-1 Copy of Medicare pamphlet Section 10.

VII. FINDINGS OF FACT:

- 1) The claimant had an active Qualified Individual I Medicaid (QI-1) case when he was in the local office to apply for the Food Stamp Program and reported his income as \$966 Social Security (RSDI) and \$143 Veterans Benefits (VA) for a total of \$1109 gross monthly income (Exhibit #B).
- 2) The \$20 disregard was deducted and \$1089 was determined as countable net income.
- 3) The claimant's wife was not considered as an Assistance Group (AG) member as she did not receive Medicare and the income limit for a one-person AG was \$1077 and it was determined that the claimant's monthly countable income of \$1089 exceeded the countable income limit of \$1077.
- 4) A notification letter was sent on 8-5-05 to close the QI-1 case effective 8-31-05 (Exhibit #C) and the claimant requested a hearing on 8-12-05 and requested that benefits not continue pending the hearing decision.

- 5) The claimant testified that he does not understand why both people (he and his wife) have to receive RSDI to be included in the AG and testified that his wife received SSI benefits but lost it when he started receiving RSDI.
- 6) The claimant testified that someone from Medicare told him that his wife did not have to receive RSDI to be included and that she should have been included.
- 7) The claimant testified that he receives \$966 RSDI and \$143 VA and that the pamphlet about Medicare (Exhibit #E) says the limit is \$1097 with a \$20 disregard and that he was told the \$20 disregard was put in to help people close to the limit and that he thinks it is not morally right to lose the benefit because of a few dollars.
- 8) Ms. Bailey testified that the policy states that only individuals receiving Medicare may be included in the assistance group (AG) and that the guidelines in the SHIP document (Exhibit #E) are incorrect as they add the \$20 disregard to the income limit of \$1077 to arrive at the \$1097 amount.
- 9) WV Income Maintenance Manual Section 9.12 states, in part:

“B. THE INCOME GROUP (IG)

Eligible Individual With No Spouse

Count only the individual’s income.
- 10) WV Income Maintenance Manual Section 10.16 states, in part:

B. DETERIMING ELIGIBILITY

Countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income.....

Countable income is determined as follows:

Step 1: Determine the total non-excluded gross unearned income and subtract the appropriate disregards. See Section 10.22 B.

Step 2: Determine the total non-excluded gross earned income. See Section 10.22 B.

Step 3: Add unearned income from Step 1 above.

Step 4: Subtract the amount of income diverted to a PASS account and the Death Benefit deduction.

Step 5: Compare the amount in Step 4 to the QMB, SLIMB, or QI-1 income levels for the appropriate number of persons. See item C, 4 below. If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client(s) is eligible.

Eligibility for these coverage groups is determined as follows:

QMB-Income is less than or equal to 100% FPL.

SLIMB-Income is greater than 100% FPL, but less than or equal to 120% FPL.

QI-1-Income is greater than 120% FPL, but less than or equal to 135% FPL.

See Appendix A.”

- 11) WV Income Maintenance Manual Section 10, Appendix A states, in part:

“Number of Persons	QI-1
1	\$958 - \$1077
2	\$1284 - \$1444”

- 12) WV Income Maintenance Manual Section 10.16 E states, in part:

QUALIFIED INDIVIDUAL (QI-1) (QIA)

Income: 121 to 134% FPL

An individual or couple (spouse) is eligible for limited* Medicaid coverage when all of the following conditions are met:

- The individual must be eligible, not just enrolled, for Medicare, Part A, in any of three (3) ways:

By being age 64 years, 9 months old or older; or

By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 23 months or longer; or

By having end stage renal disease....

Medicaid coverage is limited to payment of the Medicare, Part B premium.”

VIII. CONCLUSIONS OF LAW:

- 1) WV Income Maintenance Manual Section 10, Appendix A states that the income limit for a one-person AG for the QI-1 Medicaid Program is \$1077. The claimant receives gross monthly income of \$1109 and has a countable monthly income of \$1089 when the \$20 disregard is deducted. The countable income of \$1089 exceeds the monthly allowable income limit of \$1077 for a one-person AG.
- 2) WV Income Maintenance Manual Section 10.16 E states that the individual or couple must be eligible for, not just enrolled, for Medicare, Part A in order to be eligible for the QI-1 Medicaid Program. The claimant’s wife does not receive Medicare Part A and cannot be included as an assistance group (AG) member and thus cannot be included in the income limit determination.
- 3) The document titled “Do you have difficulty paying your medicare costs” from WV SHIP has incorrectly added the \$20 disregard to the \$1077 gross income limit which is 135% of FPL and is not official policy or regulations from the WV Department of

Health and Human Resources which has the authority to provide proper regulations on the QI-1 Medicaid Program.

IX. DECISION:

It is the decision of the State Hearing Officer that the Department took the correct action to close the QI-1 Medicaid Program case due to excessive monthly countable income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of September, 2005.

Thomas M. Smith
State Hearing Officer