

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 13, 2005 for Mr. _____. 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 November 30, 2004 on a timely appeal, filed October 7, 2004.

It should be noted here that the claimant is currently receiving Nursing Home Benefits.

A formal pre-hearing conference was not held between the parties.

II. PROGRAM PURPOSE:

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

Nursing Home Care is a medical service which is covered by the State's Medicaid Program. Payment for care is made to nursing homes which meet Title XIX (Medicaid) standards for the care provided to eligible recipients. In order to qualify for Nursing Home Care, an individual must meet financial and medical eligibility criteria.

III. PARTICIPANTS:

_____, Esq., Son/Power of Attorney
Cheryl Turnes, Economic Services Worker – [REDACTED] District DHHR Office

Presiding over the hearing was Ray B. Woods, Jr., M.L.S., State Hearing Officer and, a Member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

Does Income Disregards and Deductions under the Post Eligibility Process for Nursing Home Care, include Alimony and Income Taxes?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 17.9 D. Post-Eligibility Process – Income Disregards and Deductions.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department' Exhibits:

- Exhibit D-1 WVIMM Chapter 17.9 (1)
- Exhibit D-2 NF/ICMR Patient Liability Printout
- Exhibit D-3 Notice of Contribution to the Cost of Care Letter dated 09/16/04
- Exhibit D-4 Verification of Annuity received 08/24/04
- Exhibit D-5 Copy of Retirement Withholding
- Exhibit D-6 Scheduling Notice dated 10/07/04

VII. FINDINGS OF FACT:

- 1) Mr. _____ on behalf of his father, Mr. _____, is seeking deductions for the payment of income taxes and alimony garnisheed from his income.
- 2) The policy found at West Virginia Income Maintenance Manual Chapter 17.9 D. Post-Eligibility Process – Income Disregards and Deductions, allows five (5) deductions, i.e., Personal Needs Allowance; Community Spouse Maintenance Allowance; Family Maintenance Allowance; Outside Living Expenses and; Non-Reimbursable Medical Expenses.
- 3) The gross pay from three sources of income was used to calculate the client's resource amount payable to the nursing home. The calculation was determined as follows: \$3,983.60 (Gross Income) minus \$50.00 (Personal Needs Allowance) minus \$66.60 (Medicare Premium) minus \$105.95 (Health Insurance Premium) = \$3,761.05 (Resource Amount).
- 4) Mr. _____'s family must make up the difference of the income taxes and alimony deducted from his retirement income, to pay the resource amount to the nursing home.

VIII. CONCLUSIONS OF LAW:

- 1) State and Federal Income Taxes and Alimony Payments are not allowable deductions under the Post-Eligibility Process, for calculating the nursing home resource amount.

IX. DECISION:

It is the decision of this State Hearing Officer to UPHOLD the Department's action in this particular matter.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29