



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third St.
Elkins, WV 26241

Joe Manchin III
Governor

February 17, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 15, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to deny your Medicaid coverage under the Pickle Amendment due to excessive income.

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 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 Pickle Amendment Coverage is based on current policy and regulations. Some of these regulations state that an individual's income must be less than the current SSI maximum payment after all disregards and deductions are applied in order to qualify financially for the program. (West Virginia Income Maintenance Manual Section 10.15 C)

Information submitted at the hearing revealed that your income exceeds the program's financial guidelines after the appropriate disregards and deductions are applied.

Therefore, it is the decision of the State Hearing Officer to **uphold** the proposal of the Department to deny your Medicaid coverage under the Pickle Amendment.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Board of Review
Mary Hall, ESW, DHHR

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

NAME: _____
ADDRESS: _____

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 17, 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 February 15, 2005 on a timely appeal filed January 31, 2005.

It should be noted here that Medicaid benefits under the Pickle Amendment have been continued.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The West Virginia Medicaid Program provides payment for covered medical services to certified medical providers for eligible individuals who are aged, blind or disabled and to eligible members of families with dependent children.

III. PARTICIPANTS:

_____, Claimant
Mary Hall, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in its proposal to deny Medicaid eligibility under the Pickle Amendment due to excessive income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 16.6, 10.15 and Chapter 10, Appendix E

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits

- D-1 Copy of IG-BR-29 and hearing request form
- D-2 Copy of application denial letter dated January 25, 2005
- D-3 WV Income Maintenance Manual Sections 16.6, 10.15 and Chapter 10, Appendix E
- D-4 Copy of Pickle Amendment Coverage Eligibility Calculations
- D-5 Department hearing summary

Claimant's Exhibits

- C-1 Prescription printout from [REDACTED] Pharmacy

VII. FINDINGS OF FACT/CONCLUSIONS OF LAW:

- (1) The Claimant reapplied for Pickle Amendment Medicaid on January 6, 2005. Her case had been closed as a result of failure to complete a redetermination.
- (2) Ms. Hall testified that she verified the Claimant's income as Social Security Disability of \$691 and Social Security Widows' benefits of \$662 per month.
- (3) Ms. Hall received verification that the last month the Claimant received SSI and Social Security Disability benefits in the same month was May 1989.
- (4) A Pickle Amendment Coverage Eligibility Calculation sheet (D-4) reveals the Claimant's total countable income after all deductions and disregards is \$1,093, which is greater than the current SSI payment amount of \$579 for the year 2005. Because the Claimant's countable income is greater than the SSI payment level, the Claimant is financially ineligible for Pickle Amendment Coverage, Ms. Hall stated. Countable income is calculated as follows:

$$\text{Social Security Disability income of } \$691 \times \text{multiplier of } .654 = \$451.91 + \text{Social Security Widow's benefits of } \$662 = \$1,113.91 - \$20 \text{ disregard} = \$1,093 \text{ total countable income.}$$
- (4) The Claimant was sent a letter dated January 25, 2005 (D-2), which states:

Your application for Pickle Amendment Medicaid has been denied effective 1/05. Here is why: You are no longer eligible to receive the Pickle Amendment Medicaid due to your income being over the SSI income payment level.
- (5) The Claimant did not dispute the amount of her income, but presented a prescription printout showing her monthly medication costs. She stated her medication is more than \$1,700 per month, which exceeds her monthly income.

CONCLUSIONS OF LAW

- (1) WV Income Maintenance Manual Section 16.6, 5 (D-3) states:

An individual is eligible for Medicaid coverage under the Pickle Amendment if all of the following conditions are met:

- He was eligible for and received RSDI and SSI concurrently, i.e., at the same time, for at least one month after April 1977.
- He lost SSI for any reason, but would currently be eligible if the total amount of all RSDI COLAs since the loss of SSI were deducted from his RSDI. This includes a COLA which results in the loss of SSI.
- The individual currently receives RSDI benefits.

(2) WV Income Maintenance Manual Section 10.15 C (D-3) reveals the following steps for determining Pickle Amendment Coverage eligibility:

Step 1: Determine the last month and year in which the client received SSI and RSDI concurrently, i.e., at the same time.

Step 2: Using Appendix E, find the percentage that applies to that year and multiply the current RSDI amount for the client and/or his financially-responsible parent or spouse by that percentage. Drop any cents.

Step 3: Add any other current countable income.

Step 4: Apply the disregards and deductions from item B above. If the remaining amount is less than the current SSI maximum payment, the client is income eligible.

(3) WV Income Maintenance Manual Chapter 10, Appendix E reveals the multiplier for 1989, the year the Claimant's last SSI check was received, is .654.

VIII. DECISION:

After reviewing information presented during the hearing and the applicable policy and regulations, it was determined that the Claimant's total countable income for Pickle Amendment Medicaid is \$1,093, which exceeds the current SSI payment level of \$559. Therefore, it is the decision of the State Hearing Officer to **uphold** the determination of the Department to deny the Claimant's Medicaid coverage under the Pickle Amendment.

IX. RIGHT OF APPEAL:

See Attachment

X. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

