



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

Joe Manchin III
Governor

February 24, 2005

Dear Mr. & Mrs _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 10, 2005. Your request was based on the Department of Health and Human Resources' proposed action to discontinue your Medicaid coverage at the end of your Period of Consideration.

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 the Medicaid program is determined based on current regulations. One of these regulations reveals 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 "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 the hearing revealed that you met a Spenddown effective June 2004 and that November 2004 was the last month of your Period of Consideration. You were notified in a letter dated November 17, 2004 that your Medicaid benefits would end on November 30, 2004 and that you must reapply to determine if you qualify for continued Medicaid coverage. A new application was not completed however you did request a hearing on the proposed closure.

It is the decision of the State Hearing Officer to **uphold** the proposed action of the Agency to close your Medicaid case at the end of your Period of Consideration.

Sincerely,

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

cc: Chairman, Board of Review
Teresa Stevanus , DHHR

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

February 24, 2005

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded for _____ and _____ on February 10, 2005. 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 convened on February 10, 2005 on a timely appeal filed December 16, 2004.

Benefits have been continued during this Hearing process as a Pre-Hearing conference was requested within the 13 days allowed.

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 aged, disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

_____, Claimant
_____, Claimant
Teresa Stevanus , DHHR Representative

Presiding at the hearing was Sharon K. Yoho, 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 the proposed closure of the claimant's Medicaid coverage.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 1.22 and 10.22 (A), (B) and (D)
42 CFR § 435.831 Code of Federal Regulations:

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VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Departments' Exhibits:

Exhibit # D1 - WV Income Maintenance Policy §10.22

Exhibit # D2 - Spenddown Calculations

Exhibit # D3 - Closure Letter dated November 17, 2004

Exhibit # D4 - WV Income Maintenance Policy §1.22

VII. FINDINGS OF FACT:

- 1) _____ and _____ are both disabled and Mr. _____ has Bone and Prostate Cancer. They each are categorically eligible for the Medicaid program and in June 2004 had met their calculated Spenddown amount of \$4452.
- 2) The Agency approved Medicaid benefits for a six months Period of Consideration (POC) in the month of June 2004.
- 3) On November 17, 2004 the Agency issued a notice that the Medicaid coverage would end at the end of November and that they must reapply. The couple requested a Pre-Hearing conference which was held on December 16, 2004 where they were told that they would again have to meet the Spenddown for another POC. They advised Ms. Stevanus that they wished to have a Fair Hearing regarding the closure.
- 4) Mr. _____ takes prescribed medication which exceeds a costs of \$1000. per month. He also undergoes Cancer treatments that average in excess of \$1000. per month.
- 5) The claimants have not yet made an application for a new POC because they can not see how they can prove that they have incurred the Spenddown amount of \$4452. if they cannot obtain medication on credit. The cancer treatment procedures can be administered and billed later.
- 6) The claimant's monthly income which is in excess of the Medically Needy Income Level of \$275. per month is multiplied by six to determine the Spenddown amount for each POC.
- 7) Most of Mr. and Mrs. _____'s income is used for household living expenses. They voiced concerns that once the Medicaid card stops, there would be no way for medication to be purchased which Mr. _____ desperately needs.
- 8) Although these claimants understand the Spenddown process, they believe that the policy should allow for Medicaid coverage to be provided to Cancer patients for needed medication and treatments without a Spenddown being met.

VIII. CONCLUSIONS OF LAW:

- 1) West Virginia Income Maintenance Manual § 10.22 ©)(11):
Countable (Medicaid) income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income.

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VIII. Section Continued:

- 2) West Virginia Income Maintenance Manual § 10.22 (D):
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.
- 3) West Virginia Income Maintenance Manual § 10.22 (A):
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.
- 4) 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.
- 5) West Virginia Income Maintenance Manual § 1.22, N, 2 states that Spenddown AG's are not redetermined and are closed at the end of the 6th month of the POC. The client must reapply for a new POC.

IX. DECISION:

Policy is clear, that an SSI- Related Medicaid case must have the household income evaluated and applied to a Spenddown process. Also clear, is that if the household's countable income exceeds the specified Medically Needy Income Levels; a Spenddown must be met prior to Medicaid participation. Policy also holds that Medicaid eligibility is based on a 6-month period of consideration and eligibility for medical coverage may be met for all or a portion of this 6-month period depending on at what point the Spenddown amount is met. Allowable medical expenses are entered in chronological order and eligibility for Medicaid coverage may only be established from the date the medical expense which met the Spenddown was incurred. The coverage continues to the end of the 6-month Period of Consideration. If the client does not re-apply, the case must be closed. If the client does apply, but does not submit sufficient medical bills to satisfy the established spenddown within 30 days (application processing deadline) the application is denied.

Evidence reveals that the claimant's SSI Medicaid coverage ended at the end of November and the case should have been closed. The Medicaid case should remain closed until which time an application is made and the calculated Spenddown amount met. The claimant, during the hearing process, acknowledged an understanding of the Spenddown process and how the Spenddown amount was determined in his case. They however do not agree with the policy. While this Hearings Officer is sympathetic to the concerns of the claimant's, it is clear that the agency did follow policy correctly, in the proposed discontinuance of the Medicaid coverage.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to close the claimant's Medicaid case.

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X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29