

**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 25, 2005 for Ms. _____. 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 March 1, 2005 on a timely appeal, filed February 10, 2005.

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

A pre-hearing conference could not resolve the issues between the parties. Mrs. _____, Power of Attorney, did not have an attorney representing her in this particular matter.

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:

Mrs. _____, Power of Attorney

Ms. Mary Cae Henderson, Economic Services Worker – (b)(6) 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 Federal 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:

- D-1 NF/ICF MR Patient Liability
- D-2 Commonwealth of [REDACTED] 2004 Form 1099-R
- D-3 WVIMM Chapter 17.9 D. Post-Eligibility Process – Income Disregards and Deductions
- D-4 Scheduling Notice dated 02/10/05
- D-5 Request for Hearing dated 02/06/05

VII. FINDINGS OF FACT:

- 1) Mrs. _____, Power of Attorney on behalf of her husband's aunt, Ms. _____, is seeking deductions for the withholding of \$209.00 monthly Federal Income Taxes, (\$2,519.76 yearly), from the Public School Employees Retirement System Benefits. Ms. _____ was approved for Nursing Home Medicaid effective January 2005.
- 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 sources of income was used to calculate the client's resource amount payable to the nursing home. The calculation was determined as follows: \$3,010.09 (Gross Income) minus \$50.00 (Personal Needs Allowance) minus \$78.20 (Medicare Premium) minus \$263.75 (Health Insurance Premium) = \$2,618.14 (Resource Amount).
- 4) Ms. _____'s family must make up the difference of the Federal Income Taxes deducted from her retirement income, to pay the resource amount to the nursing home.
- 5) Ms. _____, who is 99 years of age, does not meet any of the allowable deductions under WVIMM Chapter 17.9 D. Post-Eligibility Process – Income Disregards and Deductions.

VIII. CONCLUSIONS OF LAW:

- 1) State and Federal Income Taxes 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