



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

November 1, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 8, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate benefits under the Qualified Medicare Beneficiaries (QMB) Program.

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 QMB Program is based on current policy and regulations. Some of these regulations state as follows: Compare the countable income to the QMB income levels for the appropriate number of persons. If the amount is less than or equal to the QMB income levels, the client is eligible. QMB - Income is less than or equal to 100% FPL. (Section 10.16 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that your countable income exceeds the QMB income levels.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to terminate benefits under the QMB Program.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Susan Godby, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____,
Claimant,

v.

Action Number: 05-BOR-5330

**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 June 8, 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 June 8, 2005 on a timely appeal, filed March 29, 2005. It should be noted that this hearing was originally scheduled for May 9, 2005 and was rescheduled to June 8, 2005 at the Department's request.

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

II. PROGRAM PURPOSE:

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

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:

_____, Claimant
_____, Claimant's Spouse
Susan Godby, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in the decision to terminate benefits because the claimant no longer meets the financial requirements for the QMB Program.

V. APPLICABLE POLICY:

Sections 10.16, 10.1, 10.22 and Appendix B, Chapter 10 of the West Virginia Income Maintenance Manual.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Form IG-BR-29 Hearing/Grievance Record Information
- D-2 Sections 10.16 and 8.6 of the West Virginia Income Maintenance Manual
- D-3 Department's Summary
- D-4 Notification Letter dated 03/23/05
- D-5 RAPIDS Screen – Income Computations
- D-6 RAPIDS Screen – Children's Allocation

Claimants' Exhibits:

- C-1 Statement from [REDACTED]
- C-2 Statement from [REDACTED]

VII. FINDINGS OF FACT:

- 1) The claimant is a recipient of QMB.
- 2) A case review was completed in March, 2005. It was determined the household income was excessive for the program. A notification letter for case closure was mailed 03/23/05. A hearing was requested 03/29/05.
- 3) Susan Godby explained the income computations. Mr. _____ has Social Security of \$909.00 per month. Mrs. _____ has earnings of \$1,090.30 (\$545.15 2 times a month). The deductions are as follows: \$909 less \$20 disregard equals \$889. Mrs.

_____’s income is deemed at \$429.30. There is a 65 and ½ disregard off of the earned income. The countable earned income deemed to Mr. _____ is \$182.15. Total countable income for Mr. _____ is \$889 plus \$182.15 equals \$1071.15. The allowable limit for a couple is \$1,070. The income exceeded the allowable limit by \$1.15.

- 4) Ms. Godby discussed how the income is deemed. \$429.30 of Mrs. _____’s income was deemed. This figure is arrived at by deducting \$661. There are four children in the home. The need allocation level is \$290. Their Social Security income is \$408. The allocation level is \$1160 (290 x 4), \$1160 less \$408 equals \$752. This is the unmet need allocation. \$91.00 is the allocation amount subtracted. The amount left is \$661. \$551 is then subtracted from the gross earnings of 1090.30. The Department is counting \$91.00 Social Security for Mrs. _____.
- 5) Testimony revealed that Mrs. _____ does not receive any Social Security at the present time. They were getting Social Security in _____, _____ and _____’s name only. When the benefits were changed, they took _____’s name off and _____ and _____ (_____) on. Two of the children each receive \$91 in Social Security and the other two \$113 each, The earned income is correct. There was no documentation of this change or when it occurred.
- 6) Section 10.16B of the West Virginia Income Maintenance Manual reads in part that Countable income for QMB is determined as follows: 1) Determine the total non-excluded income and subtract the appropriate disregards. 2) Determine the total non-excluded gross earned income. 3) Add unearned income from Step 1. 4) Subtract the amount diverted to a PASS account and the death benefit deduction. The result is the total countable monthly income. 5) Compare the amount in Step 4 to the QMB income levels for the appropriate number of persons. If the amount is less than or equal to the QMB income levels, the client is eligible. QMB - Income is less than or equal to 100% FPL
- 7) Section 10.22D#4 of the West Virginia Income Maintenance Manual discusses deeming. Deeming from an ineligible spouse to an SSI-Related spouse: 1) Determine the ineligible spouse’s total non-excluded unearned income. 2) Subtract the needs of all ineligible dependant children. The needs of each ineligible child is determined separately by subtracting the child’s income from the Allocation Standard. The difference, if any, represents the child’s needs. After separate determinations are made for each separate child, the allocations are added together and subtracted from the income. 3) Determine the ineligible spouse’s non-excluded gross earned income. 4) Subtract the remainder of the needs of all ineligible children which could not be subtracted in Step 2. 4) Add together the remaining ineligible spouse’s earned and unearned income. 5) Compare the amount in Step 5 to the Allocation Standard.
- 8) When the remaining amount is less than the Allocation Standard, no income is deemed from the ineligible spouse and the individual income limit is used. When the remaining amount is in excess of the Allocation Standard, the ineligible spouse’s earned income is deemed to the SSI-Related spouse’s earned income and the ineligible spouse’s unearned income is added to the SSI-Related spouse’s unearned income. Yjr income limit for two persons is used even though only one spouse is in the AG.

- 9) Appendix B, Chapter 10 of the West Virginia Income Maintenance Manual shows 100 % FPL for a 2 person AG as \$1070. The SSI level for 1 person is \$579 and for a couple #869.
- 10) Section 10.1 of the West Virginia Income Maintenance Manual reads in part that the definition of Allocation Standard is the difference between the maximum SSI payment for one and two persons,

VIII. CONCLUSIONS OF LAW:

- 1) The children's needs amount is determined as follows: 2 children – Allocation Amount (\$290) less income of \$91 equals \$199. 2 children \$290 less 113 equals \$177. Needs amount for children \$752,
- 2) The ineligible spouse's unearned income from Social Security is \$91. \$752 less \$91 equals \$661. The ineligible spouse's earned income is \$1090.30. \$1090.30 less \$661 is \$429.30. Since \$429.30 is more than the Allocation Standard of \$290, this amount is deemed to the SSI-Related spouse.
- 3) The countable income is determined as follows: Mr. _____'s RSDI \$909 less \$20 equals \$889. \$429.30 (amount deemed spouse's earnings) less 65 ½ equals \$182.15. \$889 plus \$182.15 equals \$1071.15.
- 4) 100% FPL for 2 persons is \$1070.
- 5) There was conflicting testimony regarding _____'s Social Security of \$91.00. The Department shows this income in their records. The State Hearing Officer is considering this income since there is no verification it has stopped.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is correct in the decision to terminate the claimant's benefits under the QMB Program. The action described in the notification letter dated March 23, 2005 will be taken. If the Social Security amounts have changed, the claimant needs to provide documentation to the Department.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of November, 2005.

**Margaret M. Mann
State Hearing Officer**