

**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 15, 2005 for Mrs. \_\_\_\_\_. 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 December 14, 2004 on a timely appeal, filed October 21, 2004. Mrs. \_\_\_\_\_ requested that the hearing be conducted via conference call and include her sister, Ms. \_\_\_\_\_. Copies of the Department's Exhibits were mailed to Mrs. \_\_\_\_\_ prior to the hearing.

It should be noted here that Mrs. \_\_\_\_\_ was not receiving AFDC-Related Medicaid Benefits at the time of the fair hearing.

A pre-hearing conference was not held between the parties and, Mrs. \_\_\_\_\_ did not have an attorney working with her on this case.

All parties agreed to provide truthful information during the fair hearing.

**II. PROGRAM PURPOSE:**

The Program AFDC-RELATED MEDICAID is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

For purposes of AFDC-Related Medicaid only, otherwise eligible means that a deprivation factor exists and the child lives with a specified relative. Whether an individual has earned or unearned income, other than SSI benefits, sufficient to meet his needs is not a factor to consider when determining if the individual is eligible to be included in the Assistance Group

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant (Participated by Conference Call)

\_\_\_\_\_, Sister (Participated by Conference Call)

Barbara Polen, Family Support Specialist – \_\_\_\_\_ District DHHR Office

Presiding at the Fair 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:**

Did Mrs. \_\_\_\_\_ have excessive assets for the AFDC-Related Medicaid Program?

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 11.3 *MAXIMUM ALLOWABLE ASSETS – AFDC-RELATED MEDICAID*.

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department' Exhibits:**

Exhibit - A Case Comments dated 09/23/04  
Exhibit - B NADA Values  
Exhibit - C WV IMM Chapter 11.3 3 MAXIMUM ALLOWABLE ASSETS – AFDC-RELATED MEDICAID  
Exhibit - D Denial Letter dated 09/24/04 & Asset Test for AFDC Related Medicaid  
Exhibit - E Rights and Responsibilities dated #14 & #15  
Exhibit - F Rights and Responsibilities Signature Page dated 09/23/04  
Exhibit - G Scheduling Notice dated 10/21/04  
Exhibit - H Request for Hearing dated 10/03/04  
Exhibit - I GroupWise Message re: Scheduling

**VII. FINDINGS OF FACT:**

1) Mrs. Polen submitted the following Hearing Summary:

Mrs. \_\_\_\_\_ was in the office on 9/23/04 to apply for WV Works benefits. (Exhibit A). At which time, Mrs. \_\_\_\_\_ reported receiving a \$7000 insurance settlement, and reported she had used the insurance settlement. She reported she bought a 2001 Dodge Stratus with a retail value of \$8500 and a trade in value of \$6750. (Exhibit B). Mrs. \_\_\_\_\_ stated "she owes nothing on the vehicle."

Mrs. \_\_\_\_\_ was denied because policy section 11.3 of the Income Maintenance Manual clearly states that the asset limit for AFDC (Aid to Families with Dependent Children) Medicaid has an asset limit of \$1000 regardless of the number of people in the assistance group. (Exhibit C).

Mrs. \_\_\_\_\_'s vehicle assets were in excess by \$4,400. (Exhibit D). The asset level for this type of medical assistance as well as SSI-Related Medicaid (disability) AFDC

Related Medicaid, (deprivation factor of unemployment, absent parent, deceased parent) at the maximum is \$3000.00. (Please refer to Exhibit C).

In addition, the Rights and Responsibilities clearly states: "I understand by accepting Medicaid under any Category, I agree to give back the state any and all money that is received by anyone listed on this application from an insurance company for repayment of medical and/or hospital bills for which the Medicaid program has or will make payment. In addition, I agree that all Medicaid payments or medical support paid or owed due to a court order for me or anyone listed on this application must be sent to the state to repay past or current medical expenses paid by the state. I further agree to notify the Department of Health and Human Resources Office if I or anyone listed on this application is involved in any accident. I understand that this assignment of funds continues as long as I or anyone on the application receives Medicaid." (Exhibit E Medicaid section #14).

The Rights and Responsibilities section also states, "I understand it is an eligibility requirement that I must cooperate with the Department of Health and Human Resources and with any provider of medical services pursuing any assign to the Department benefits available to any Medicaid recipient from any third-party sources result of injury, accident, or illness, I understand that the amount payable of any such third party resources directly to the Department. If the liable third party makes payment directly to me, I agree to refund the Department an amount up to but not exceeding the amount of Medicaid liability. I understand that this repayment must be made even if my eligibility for Medicaid Has stopped prior to my receiving such monies. I further authorize the release of any medical information or any information regarding medical insurance to the Department and also authorize the release for any medical insurance information to medical provider(s) for billing purposes. Authorization is also given to the Department to release medical payment information to attorney and/or insurance companies for the resolution of third-party claims." (Please refer to Exhibit E, Medicaid section #15).

In conclusion Mrs. \_\_\_\_\_ is not only ineligible for any type of Medicaid assistance due to assets, she also must agree to cooperate with the West Virginia Department of Health and Human Resources in pursuing 3rd party liability if Medicaid made payment for her injuries, otherwise she will continue to remain ineligible for benefits according to the Rights and Responsibilities signed by Mrs. \_\_\_\_\_ (Exhibit F) as being understood.

2) Mrs. \_\_\_\_\_ is not eligible to receive WV Works Benefits for 23 months due to the \$7,000.00 insurance settlement.

**VIII. CONCLUSIONS OF LAW:**

1) According to the West Virginia Income Maintenance Manual Chapter 11.3 *MAXIMUM ALLOWABLE ASSETS – AFDC-RELATED MEDICAID*, Mrs. \_\_\_\_\_ has assets in excess of \$4,400.00 for the Program.

**IX. DECISION:**

It is the decision of the State Hearing Officer to UPHOLD the action of the Department to deny the AFDC-Related Medicaid application.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29