



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 28, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 16, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to discontinue Medicaid coverage when your SSI benefits ended.

In arriving at a decision, the State Hearings 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 Card is based on current policy and regulations. Some of these regulations state as follows: 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 your hearing, revealed that your SSI benefits have stopped and your medical bills were not sufficient to satisfy your Spenddown amount.

It is the decision of the State Hearings Officer to uphold the action of the Department to discontinue SSI related Medicaid coverage.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Paul Denchy, DHHR

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

_____,
Claimant,

Action Number: 05-BOR-6406

**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 November 16, 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 November 16, 2005 on a timely appeal, filed July 20, 2005.

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

II. PROGRAM PURPOSE:

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

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

Claimant's Witnesses:

_____, claimant

Department's Witnesses:

Barbara Bolinger, Family Support Specialist, DHHR

Presiding at the Hearing was Sharon K. Yoho, 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 agency was correct in their proposed discontinuance of the Medicaid benefits and assessing coverage eligibility under the Spenddown Medicaid policies.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 1.22 and 10.22
42 CFR § 435.831 Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of proposed closure dated 7/13/05
- D-2 Notice of denial of Medicaid dated 7/21/05
- D-3 Hearing request dated 7/20/05
- D-4 WV Income Maintenance Manual policy

VII. FINDINGS OF FACT:

- 1) Ms. _____ was an active recipient of SSI related Medicaid in July 2005 based on her being an SSI recipient. Her SSI benefits ended when she was approved for Social Security Disability.
- 2) The Department sent a notice July 13, 2005 proposing to close her Medicaid case and scheduled an appointment for her to reapply for Spenddown Medicaid coverage.
- 3) The claimant's Social Security monthly income exceeded the Medical Needy Income Level of \$200. The caseworker calculated a Spenddown amount of \$3612.
- 4) Ms. _____ advised the Department that she did not have medical bills to meet the \$3612. Spenddown amount.

- 5) The Department issued a denial letter on July 21, 2005, advising Ms. _____ that her application for Medicaid had been denied.
- 6) The claimant requested a hearing on July 20, 2005 and benefits were continued pending the hearing decision.
- 7) West Virginia Income Maintenance Manual § 16.6: Specific Medicaid Requirements Categorically Needy, Mandatory – For Aged, Blind or Disabled

NOTE: No Categorically Needy coverage group is subject to spenddown provision.

West Virginia elected to cover all SSI recipients and to accept SSA'S determination of eligibility for SSI as the sole eligibility determination for Medicaid.

Consequently, there is no application or eligibility determination process for SSI Medicaid. Instead, the Department depends upon SSA for the information needed to open and evaluate continuing eligibility for SSI Medicaid cases

- 8) 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.
- 9) 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.
- 10) 42 §435.831 Code of Federal Regulations:

The agency must use a prospective period not more than 6 months to compute income. If countable income exceeds the income standard, the agency must deduct from income.....incurred medical expenses that are not subject to payment by a third party.

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that SSI related Medicaid is set up for a six (6) month period of consideration and then reviewed. Policy is clear in Chapter §10.22 that a person otherwise eligible for Medicaid who has income exceeding the Medically Needy Income Level must first meet a Spenddown amount before Medicaid coverage can begin.
- 2) Policy provides that eligibility for SSI benefits is a sole determination factor for eligibility for SSI Medicaid.

IX. DECISION:

Evidence and testimony given at this hearing clearly reveals that the Claimant's SSI benefits stopped and Medicaid coverage should have ended and the case assessed for SSI related Medicaid coverage with a Spenddown amount. It is the ruling of this Hearing Officer to **uphold** the agency in their proposal to discontinue Medicaid coverage and to apply Spenddown provisions in determining future eligibility.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of November 2005.

Sharon K. Yoho
State Hearing Officer