



**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 7, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 25, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to discontinue Medicaid coverage at the end of your six (6) months period of consideration.

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 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-6487

**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 October 25, 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 October 25, 2005 on a timely appeal, filed July 26, 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 (appearing by speakerphone)

Paul Denchy, Family Support Supervisor, 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 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 7/19/05
- D-2 Notice of reinstated benefits pending hearing dated 8/11/05
- D-3 Hearing request dated 7/20/05
- D-4 Case Comments dated 2/15/05 thru 9/15/05

VII. FINDINGS OF FACT:

- 1) Mr. _____ was an active recipient of SSI related Medicaid in January 2005. His six (6) month period of consideration ended January 31, 2005.
- 2) The Department proposed to close his Medicaid case and scheduled an appointment for him to reapply for Spenddown Medicaid coverage.
- 3) Mr. _____ submitted a hearing request regarding the Medicaid closure. A pre-hearing date was scheduled for February 23, 2005. The hearing request was lost and coverage continued.
- 4) On July 19, 2005, the Department notified Mr. _____ again that his coverage would end. Mr. _____ submitted another hearing request on July 20, 2005.
- 5) Mr. _____'s monthly Social Security income of \$927., creates a Spenddown amount of \$3,792. On August 10, 2005, the Department received medical bills from the

claimant to apply toward his Spenddown amount of \$3,792. These bills were the same bills, which were used to meet his Spenddown originally except for \$487. This amount did not satisfy his Spenddown.

- 6) 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.
- 7) 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.
- 8) 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.

IX. DECISION:

Evidence and testimony given at this hearing clearly reveals that the Claimant's SSI related Medicaid coverage should have ended at the end of his six (6) month period of consideration when it was determined that he could not meet his 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 further eligibility.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th Day of November 2005.

**Sharon K. Yoho
State Hearing Officer**