



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton WV 2354
November 10, 2005

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 4, 2005. Your hearing request was based on the Department of Health and Human Resources' action to apply a spenddown in determining your Medicaid eligibility.

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 Medicaid program is determined based on current regulations. One of these regulations specifies that 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 is utilized to project countable income. (West Virginia Income Maintenance Manual §10.22 & 16.9)

The information which was submitted at the hearing revealed that your monthly countable income exceeds the maximum allowable for purposes of the West Virginia Works Program and the agency's proposal to terminate such benefits was correct and in compliance with policy. Your income also exceeds the current standard for Medicaid (Medically Needy Income Level), resulting in a Medicaid spenddown of \$4686 for a 6 month period. There are currently no exceptions or special Medicaid programs available which would address your specific medical condition.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to apply a spenddown in determining your Medicaid eligibility.

Sincerely,

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Board of Review
WVDHHR, Reva Carder

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v.

Action Number 05-BOR-6672

West Virginia Department of Health & Human Resources.
Respondent.

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 November 7, 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 originally convened on October 4, 2005 on a timely appeal filed August 25, 2005. All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

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

SSI Related Medicaid is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as either, aged, disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

_____, claimant

Reva Carder, FSS, Agency Representative.

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency was correct in applying a spenddown in determining the claimant's Medicaid eligibility?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §1.22, 9.19, 10.21, 10.22 & 16.9.
42 CFR § 435.601 & 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Agency's Exhibits:

A-1 SSA Benefit Details Printout, 9/29/05

A-2 Notification, 8/17/05

A-3 WVIMM Policy Chapter 10 Appendix A, §10.4- 10.24

Claimant's Exhibits:

C-1 Statement Dr. [REDACTED] 10/3/05

VII. FINDINGS OF FACT:

1) The claimant was informed in a notification dated 8/17/05 (A-2) that her WV Works case (including categorical Medicaid coverage) was being closed based on her receipt of Social Security benefits effective 9/05 of \$1071. The maximum WV Works payment was noted as \$340. This notification also addressed future Medicaid eligibility informing her that on the basis of this income she would now have to meet a spenddown of \$4686 to become Medicaid eligible. The claimant requested a hearing 8/25/05 and benefits have been continued pending a hearing decision. This hearing was convened 10/4/05.

2) During the hearing Exhibits as noted in Section VI above were submitted.

3) Testimony was heard from the individuals listed in Section III above.

4) There is no dispute as to the facts of the case. The claimant began receiving Social Security benefits in September of \$1071.00 per month. The claimant's concern is her continuing medical coverage as Medicare will not be effective for 6 months. Claimant says she understands the agency's policy but feels it is unfair as there are medical programs for breast and cervical cancer but not for her colon cancer.

5) West Virginia Income Maintenance Manual § 10.21 & 10.22 (C) state in part:
Countable (Medicaid) income is determined by subtracting any allowable disregards and deductions... from the total non-excluded gross income.

6) West Virginia Income Maintenance Manual § 10.21 & 10.22 (D) (11) state in part:
To receive a medical card, the monthly countable income of the needs group must not exceed the amount of the MNIL (Medically Needy Income Level). If the income of the needs 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.

... 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 & 10.22(B) and Appendix A of Chapter 10 reveal that the monthly income disregard for unearned income is \$20 and the earned income disregard is \$65 and 1/2 of that remaining. The protected income level for a 3 person group is \$290 monthly (\$1740 for 6 months)

8) West Virginia Income Maintenance Manual § 10.22 (A):

... Medically Needy cases have a fixed Period of Consideration (POC) and the total income for the 6 month period is used to determine the spenddown amount.

9) 42 CFR § 435.831 Code of Federal Regulations:

The agency must use a prospective period of 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.

10) West Virginia Income Maintenance Manual Appendix A of Chapter 10 reveals that the maximum allowable income for the West Virginia Works Program for a 3 person benefit group is \$340.00

VIII. CONCLUSIONS OF LAW:

1) Policy reveals that eligibility for benefits under the West Virginia Works program is based on the household's countable income. Evidence reveals that the household's income increased to \$1071 effective 9/05 and the maximum allowable income for the household is \$340. The household's countable income clearly exceeded the maximum allowable for WV Works eligibility.

2) Policy directs that if an individual's countable income exceeds a standardized income level then a spenddown must be met prior to the individual becoming eligible for Medicaid coverage. The protected income level in this case is \$200 monthly while the claimant's income is \$1071. Therefore a spenddown is applicable.

3) Policy and Regulations mandate that spenddown cases will be considered for a prospective period of 6 months for purposes of income and deduction computation and application. Evidence reveals that the claimant's income, based on a Social Security benefit of \$1071 is \$6426. Deductions are a protected income level of \$1740 and unearned disregard of \$120- for the 6 month period. This results in a spenddown of \$4686.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency to apply a spenddown when determining the claimant's Medicaid eligibility.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 10th Day of November, 2005.

Ron Anglin
State hearing Examiner