



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

December 22, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 21, 2005. Your hearing request was based on the Department of Health and Human Resources' action to close your SSI-Related Medicaid Program case.

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 Program (SSI-Related) is based on current policy and regulations. One of these regulations specifies in order to be eligible for the SSI-related Medicaid Program, the total countable assets cannot exceed \$2,000. [WV Income Maintenance Manual Section 11.3]

The information which was submitted at your hearing revealed that your total countable assets as of November, 2005 were \$6083.27 and exceeded the asset limit of \$2,000 for the SSI-Related Medicaid Program.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to close your SSI-Related Medicaid Program case.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Gina Thompson, Dept. Hearing Rep.

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 05-BOR-6957**

**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 December 21, 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 December 21, 2005 on a timely appeal, filed November 15, 2005.

It should be noted that benefits were discontinued pending the hearing decision as the claimant originally requested that benefits continue but then decided not to continue benefits pending the 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 SSI-Related Medicaid Program 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

\_\_\_\_\_, Claimant's ex-husband.  
Gina Thompson, ESW, DHHR

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

#### **IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the agency was correct in the action to close the claimant's SSI-Related Medicaid Program case based on excessive countable assets.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 11.2, 11.3, 11.4.

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

##### **Department's Exhibits:**

- D-1 Copy of e-mail from Jan Kinser to Gina Thompson 10-27-05.
- D-2 Copy of fax from Gina Thompson to Jan Kinser 10-27-05 (2 pages).
- D-3 Copy of checking and CD accounts at [REDACTED] Bank 11-7-05.
- D-4 Copy of e-mail from Jan Kinser to Gina Thompson 11-9-05.
- D-5 Copy of notification of closure 11-10-05 (3 pages).

#### **VII. FINDINGS OF FACT:**

- 1) The claimant was an active recipient of the SSI-Related Medicaid Program when a worker (Jan Kinser) from the Investigations and Fraud Management Unit (IFM) notified the local office caseworker, Gina Thompson, that a complaint had been received that the claimant had a Certificate of Deposit (CD) which was unreported (Exhibit #D-1).
- 2) The worker from the IFM Unit received verification dated 11-7-05 that the claimant had a CD in the amount of \$5,000 which was opened on 7-5-05 and a checking account in the amount of \$1,008.27 which was opened 8-31-05 (Exhibit #D-3).
- 3) Notification was issued to the claimant on 11-10-05 to close the SSI-related Medicaid Program case due to countable assets in the amount of \$6083.27 which exceeded the \$2,000 asset limit for a one (1) person AG (Exhibit #D-5).
- 4) The claimant requested a hearing on 11-15-05 and originally requested continued benefits pending the hearing decision but informed Ms. Thompson not to continue benefits pending the hearing decision and the case was closed effective 11-30-05.
- 5) The hearsay evidence rule was explained to the claimant in regard to evidence presented related to Jan Kinser, the IFM worker who did not attend the hearing, but the claimant

did not chose to object to the hearsay documents and they were considered as admissible evidence.

- 6) The claimant testified that when she had her last review with Ms. Thompson, she was told to report income and did not think about reporting the CD, that her mother died on 6-10-05, that she applied for SSI in August or September, 2003 and has been appealing the denials, that she was distraught and upset over her mother's death, and that the money in the CD is gone as she has spent it on bills, etc.
- 7) Ms. Thompson testified that she was not the worker who conducted the last review on the claimant's case.
- 8) It should be noted that the claimant provided receipts and a bank ledger to Ms. Thompson to show that she had spent the money from the CD and Ms. Thompson agreed to determine whether the claimant's current assets are under the \$2,000 asset limit and to determine current eligibility for the SSI-Related Medicaid Program case.
- 9) West Virginia Income Maintenance Manual ' 11.3 states, in part:

“To be eligible for SSI-related Medicaid Program, the total amount of countable assets cannot exceed \$2,000 for an AG size of one (1).”

- 10) WV Income Maintenance Manual ' 11.4 B states, in part:

“LIST OF ASSETS

3. Checking Accounts

4. Certificate of Deposit (CD's)

The amount deposited, plus any accrued interest, minus any penalties imposed for early withdrawal, is counted as an asset.

Some funds held in CD's cannot be withdrawn prior to maturity under any circumstances. In this situation, the certificate is not an asset until the first month after it matures.”

## **VIII. CONCLUSIONS OF LAW:**

- 1) The claimant had a CD valued at \$5046.59 as of 11-7-05 and a checking account in the amount of \$1,008.27 as of 11-7-05 and the Department determined that the claimant's total countable assets equaled \$6083.27.
- 2) The asset limit for a one (1) person AG for the SSI-related Medicaid Program is \$2,000.

**IX. DECISION:**

It is the ruling of this Hearing Officer to **uphold** the action of the Department to close the SSI-Related Medicaid Program case.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 22nd Day of December, 2005.**

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**Thomas M. Smith**  
**State Hearing Officer**