



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third St.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 31, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 30, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your SSI-Related Medicaid benefits.

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 SSI-Related Medicaid Program is based on current regulations. One of these regulations states that individuals who otherwise meet eligibility requirements but 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 six-month Period of Consideration (POC) is utilized to project countable income. Spenddown Assistance Groups are not redetermined and are closed at the end of the sixth month of the POC. The client must reapply for a new POC. (West Virginia Income Maintenance Manual Sections 1.22, 16.9 & 10.22)

Information submitted at the hearing revealed that your Period of Consideration for Medicaid eligibility expired. An existing spenddown Assistance Group is not redetermined and is closed at the end of the sixth month of the POC. You must apply for a new POC and meet the spenddown before eligibility can be established.

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate your SSI-Related Medicaid benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Rita Hayner, ESS, DHHR

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

_____,
Claimant,

v.

Action Number: 06-BOR-1016

**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 March 31, 2006 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 March 30, 2006 on a timely appeal filed January 26, 2006.

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
Gary Smith, ESW, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 its proposal to terminate the Claimant's SSI-Related Medicaid benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 1.22, 16.9 and 10.22 (A), (B) and (D)
42 CFR Sections 435.831 Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Notice of Decision dated January 19, 2006

D-2 Copy of spenddown information from the August 2005- January 2006 Period of Consideration

VII. FINDINGS OF FACT:

1) The Claimant was approved for SSI-Related Medicaid with a spenddown for the Period of Consideration of August 2005 through January 2006 (D-2). The Claimant provided sufficient medical bills to meet the spenddown of \$3,387.

2) On January 19, 2006, the Claimant was sent a Notice of Decision (D-1) which includes the following information:

Action: Your Medicaid will end on 1/31/06.

Reason: The time limit for this coverage has expired.

If you wish to be re-evaluated for Medicaid, you must reapply for coverage.

3) The Claimant testified that she will be unable to afford medication and physician's visits without her medical card. She has not reapplied for Medicaid, but indicated she does not currently have sufficient medical bills to meet a new spenddown.

4) Applicable policy addressing the spenddown provision can be found in West Virginia Income Maintenance Manual Section 10.22 (D). This section states:

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 Aspend@ his income down to the MNIL by incurring medical expenses. These expenses are subtracted from the client=s income for the six-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 that 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.

- 5) West Virginia Income Maintenance Manual Section 1.22 states that spenddown Assistance Groups are not redetermined and are closed at the end of the sixth month of the POC. The client must reapply for a new POC.

VIII. CONCLUSIONS OF LAW:

- 1) Evidence reveals that the Claimant was approved for and received SSI-Related Medicaid for the six-month period of August 2005 through January 2006.
- 2) Policy governing the SSI-Related Medicaid spenddown provision fails to provide circumstances that would allow the six-month Period of Consideration to be extended.
- 3) Whereas the Claimant received proper notice of Medicaid closure in the sixth month of her Period of Consideration and has not reapplied for the benefit, the Department has appropriately proposed termination of the Claimant's SSI-Related Medicaid.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate the Claimant's SSI-Related Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31st Day of March, 2006

Pamela L. Hinzman
State Hearing Officer