



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 12, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 26, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to close 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 6 month period of consideration (POC) is utilized to project countable income. Spenddown AG's 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 ' 1.22, 16.9 & 10.22)

The information submitted at your hearing revealed that your Period of Consideration for Medicaid eligibility expired effective May 31, 2006. An existing spenddown AG (Assistance Group) is not redetermined and is closed at the end of the 6th month of the POC. You must apply for a new POC and meet your Spenddown amount before eligibility can be established.

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

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Lisa Tanner, ESW, DHHR

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

_____ ,

Claimant,

v.

Action Number: 06-BOR-2012

**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 12, 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 September 26, 2006 on a timely appeal filed May 26, 2006.

It should be noted that the Claimant's Medicaid benefits have continued pending a hearing decision.

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:

Hearing was convened via Video Conference Technology
_____, Claimant
Lisa Tanner, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 ' 1.22, 16.9 and 10.22 (A), (B) and (D)
42 CFR ' 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of Decision dated May 19, 2006.
- D-2 WV State Online Query – RSDI Information Response (income verification), Spenddown calculations and proposed Period of Consideration (POC).
- D-3 WVIMM Chapter 10, Appendix A
- D-4 WVIMM Chapter 1.21 & 1.22, Chapter 10.21 & 10.22

VII. FINDINGS OF FACT:

- 1) The Claimant was approved for SSI-Related Medicaid with a Spenddown resulting from an application completed in December 2005. The Claimant's Period of Consideration (POC) was determined to be 12/1/05 through 5/31/06.
- 2) On May 19, 2006, the Claimant was notified via a Notice of Decision (Exhibit D-1) that her Medicaid would close effective 5/31/06. This notice goes on to explain that the time limit for this coverage has expired and that she would need to reapply in order to be reevaluated for eligibility.
- 3) Lisa Tanner testified that the Claimant is medically eligible for participation in the SSI-Related Medicaid Program, however, her income exceeds the Monthly Needy Income Limit (Exhibit D-3) which causes her to have a Spenddown. Ms. Tanner testified that the Claimant has not presented any medical bills to meet her Spenddown amount for the new POC which was to be effective June 1, 2006.
- 4) The Claimant indicated that she has diabetes needs the medical card for continued medical treatment. She stated that the policy for the SSI-Related Medicaid Program is unfair. While she does not believe the Department has miscalculated or misapplied policy, she does not agree with the procedure as written in policy.

- 5) Exhibit D-2 reveals that the Claimant's new POC begins 6/1/06 and provides calculations to show how her Spenddown amount was calculated. The Spenddown amount for the new POC effective 6/1/06 is \$3672.
- 6) Applicable policy addressing the spenddown provision can be found in the West Virginia Income Maintenance Manual, Section 10.21 & 10.22 (D). This section states in pertinent 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.

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.

- 7) West Virginia Income Maintenance Manual, Chapter 1.21 & 1.22 states that Spenddown AG's are not redetermined and are closed at the end of the 6th 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 a period of six (6) months – December 2005 through May 2006.
- 2) Policy that governs the SSI-Related Medicaid Spenddown provision fails to provide circumstances that would allow the six (6) month period of consideration to be extended and states - "Spenddown AG's are not redetermined and are closed at the end of the 6th month of the POC."
- 3) Whereas the Claimant received Medicaid coverage for the 6-month POC for which she was originally approved (12/1/05 to 5/31/06) and a redetermination for a new POC has not been completed (medical bills to satisfy the Spenddown amount have not been received), the Department has acted within the guidelines of existing policy in proposing closure of the Claimant's SSI-Related Medicaid benefits.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of October 2006.

**Thomas E. Arnett
State Hearing Officer**