



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

March 5, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 21, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits under the AFDC-Related Medicaid Program.

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 AFDC-Related Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: If the net countable monthly income is equal to or less than the appropriate MNIL, the AG is eligible without a spenddown. If it is excess of the appropriate MNIL, the AG must meet a spenddown. (Section 10.21C of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that your income has increased and you are required to meet a spenddown. You do not have medical bills to meet a spenddown.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to terminate benefits under the AFDC-Related Medicaid Program.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tara McGraw, DHHR

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

_____,

Claimant,

v.

Action Number: 06-BOR-3302

**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 February 21, 2007 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 February 21, 2007 on a timely appeal, filed November 16, 2006. It should be noted that this hearing was originally scheduled for January 9, 2007. It was rescheduled by the State Hearing Officer to February 21, 2007 due to inclement weather.

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

II. PROGRAM PURPOSE:

The Program entitled AFDC-Related Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Medicaid categorically related to Aid to Families with Dependent Children Program is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

_____, Claimant

Tara McGraw, Family Support Specialist, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, 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 Department is correct in the decision to discontinue the claimant=s medical card because financial requirements could not be met.

V. APPLICABLE POLICY:

Sections 9.18, 10.21C, 10.21D #11, 2.4D #4 and Appendix A, Chapter 10 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Form IG-BR-29 Hearing/Grievance Record Information
- D-2 Termination Notice dated 01/19/2007
- D-3 Verification Checklist
- D-4 Denial Notice dated 02/01/2007
- D-5 Section 16.8B of the WV Income Maintenance Manual
- D-6 Sections 10.21 D #11 of the WV Income Maintenance Manual
- D-7 Chapter 10, Appendix A, Income Limits, of the WV Income Maintenance Manual
- D-8 RAPIDS Screen ERED, Eligibility Determination
- D-9 Case Comments dated 11/03/2006 through 02/16/2007
- D-10 Department's Summary

VII. FINDINGS OF FACT:

- 1) The Claimant is a recipient of AFDC-Related Medicaid. Testimony at the hearing revealed that the Claimant reported the receipt of Social Security on November 3, 2006. She started receiving \$639.00 Social Security per month. This income placed her over the income limit for AFDC-Related Medicaid and she is now required to meet a spenddown. She does not have the medical bills to meet a spenddown. She requested a hearing on the matter on November 16, 2006 and benefits have continued.
- 2) The Claimant was sent a verification checklist requesting medical bills to meet a spenddown. The information was due by 12/16/2006. The amount of the spenddown is \$2310.00. (Exhibit D-3) She was also sent a notice which reads in part that "Your AFDC Related Medicaid will stop. Reason: Income is more than the net income limit

for you to receive benefits. (Exhibit D-2) Another notice was sent which reads in part: “Your application for Medicaid dated 11/16/06 has been denied. Reason: You failed to verify the amount of your medical bills. The amount of your spenddown is \$2310.00. (Exhibit D-4)

- 3) Testimony from the Claimant revealed that she doesn’t feel it should matter how much income one has when they have a severe illness. She needs her medication in order to survive. She has severe rheumatoid arthritis all over her body. She has two physicians and has to have steroid shots and also a needle has to be inserted to remove fluid from her body. After her household bills are paid, she does not have money to pay for bills and medication. She has approximately ten medications she has to take. She needs to keep her medical card. She has not accumulated any bills as she has been covered by Medicaid. She did not realize she would face this issue. Her current Social Security is \$660.00 per month. Her doctors took her off work because of her illness.

- 4) The Claimant’s daughter is a recipient of SSI.

- 5) **Appendix A, Chapter 10 of the West Virginia Income Maintenance Manual reads:**

The MNIL for a one person assistance group is \$200.00, \$275 for a two person assistance group.

- 6) **Section 10.21C of the West Virginia Income Maintenance Manual reads in part:**

If the net countable monthly income is equal to or less than the appropriate MNIL, the AG is eligible without a spenddown. If it is excess of the appropriate MNIL, the AG must meet a spenddown.

- 7) **Section 10.21D #11 of the West Virginia Income Maintenance Manual reads in part:**

To receive a Medicaid card, the Income Group’s monthly countable income must not exceed the amount of the MNIL. If the income exceeds the MNIL, the AG has the opportunity to spend the 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. Once the client presents sufficient medical expenses to meet his spenddown obligation and all other Medicaid eligibility requirements are met, the spenddown is approved.....If the client does not submit sufficient medical bills by the application processing deadline, the application is denied. Certain 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.

- 8) **Section 9.18 of the West Virginia Income Maintenance Manual notes in part:**

SSI recipients, whether they are adults or children, are not included in the Assistance, Income or Needs Group.

VIII. CONCLUSIONS OF LAW:

- 1) AFDC-Related Medicaid policy requires that if the net countable monthly income is equal to or less than the appropriate MNIL, the AG is eligible without a spenddown. If it is excess of the appropriate MNIL, the AG must meet a spenddown. Also, if a client does not have sufficient bills to meet a spenddown, the application is denied.
- 2) The Claimant's income in this case increased by virtue of the fact she has been approved for Social Security benefits. The monthly amount of her income exceeds the allowable limits. She is now required to meet a spenddown.
- 3) The Claimant does not have enough medical bills to meet a spenddown.
- 4) The proposed termination of the case is valid.

IX. DECISION:

It is the finding of the State Hearing Officer that the Claimant has to meet a spenddown in order to meet the financial requirements for the AFDC-Related Medicaid Program. The Department is upheld in the proposal to discontinue the Claimant's medical card under the AFDC-Related Medicaid Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of March, 2007.

**Margaret M. Mann
State Hearing Officer**