



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

February 1, 2007

Dear Mr. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 29, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to close your SSI-related Medicaid Program case effective December 31, 2006.

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 is that individuals who meet the SSI definition of aged, blind or disabled are eligible for Medicaid when countable income is under the MNIL. [WV Income Maintenance Manual Section 16.9]

The information which was submitted at your hearing revealed that your countable income of \$448 Social Security exceeds the MNIL amount of \$200 per month.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Department to close your SSI-Related Medicaid Program case effective December 31, 2006.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Jennie Maynard, Dept. Hearing Rep.

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

____,

Claimant,

v.

Action Number: 06-BOR-3451

**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 January 29, 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 January 29, 2007 on a timely appeal, filed December 19, 2006. It should also be noted that the hearing was originally scheduled for January 2, 2007 but was rescheduled at the request of the claimant after he responded to an abandonment letter and established good cause for not keeping the original appointment.

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
Jennie Maynard, 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 to be decided is whether the agency was correct in the proposal to close the claimant's SSI-Related Medicaid Program case due to excessive monthly countable income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 2.16, 10.22, 16.9.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHR-1 Copy of hearing summary.
DHR-2 Copy of notification letter 11-30-06 (4 pages).
DHR-3 Copy of WV Income Maintenance Manual Section 10.22 D, 11 (2 pages).
DHR-4 Copy of WV Income Maintenance Manual Section 10, App. A.

Claimant's Exhibits:

CI-1 Copy of monthly medications.

VII. FINDINGS OF FACT:

- 1) The claimant was an active recipient of the SSI-Related Medicaid Program when the caseworker received notice on November 29, 2006 that the claimant had been approved for Social Security benefits (RSDI) in the amount of \$448.
- 2) The caseworker determined the claimant's monthly countable income exceeded the MNIL and would cause him to have a spenddown and notification was issued on 11-30-06 (Exhibit #DHR-2) of closure of the SSI-related Medicaid Program case effective December 31, 2006.
- 3) The Department Hearing Representative purported that the claimant was evaluated for all other Medicaid Programs and that he would have had a spenddown, that the claimant requested a hearing on 12-19-06, and that the notification letter included the reason of not completing a review but the action to close the case did not involve a review.
- 4) Testimony from the claimant purported that he did receive \$448 RSDI initially but that it increased to \$644 in January, 2007, that he will not be eligible for Medicare two (2) years, that his medication is over \$1,000 per month, and that he has no other medical insurance.
- 5) WV Income Maintenance Manual Section 2.16 states, in part:

“AFDC-RELATED AND SSI-RELATED MEDICAID

A. Case maintenance action is required to update the data system when a Medicaid AG has a change of income.

Action taken by the Worker follows:

- If the AG previously did not have a spenddown and now has one, the case is closed after proper notice.....

D. CLOSURES

When the client fails to meet any eligibility requirement the AG is closed.

- A member(s) of the Income Group experiences an increase in income.”

6) WV Income Maintenance Manual Section 16.9 states, in part:

“Individuals who meet the SSI definition of aged, blind or disabled are eligible for Medicaid when all of the following conditions are met:

- Countable income is under the MNIL.

The income eligibility requirement is detailed in Chapter 10. However, no SSI-Related case is denied due only to excess income. Instead, medical bills are deducted from countable income for the 6-month Period of Consideration. This process is called spenddown and details of this procedure are in Chapter 10.”

7) WV Income Maintenance Manual Section 10.22 D, 11 states, in part:

“To receive a Medicaid card, the monthly countable income of the Needs Group must not exceed the amount of the MNIL. 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 POC, until his income is at or below the MNIL for the FDG size, or until the POC expires. The spenddown process applies only to AFDC/U-Related and SSI-Related Medicaid.

A. Procedures

The Worker must determine the amount of the client’s spenddown at the time of application based on information provided by the client. The spenddown amount may have to be revised if the verified income amount differs from the client’s statement. He must also explain the spenddown process to the client during the intake interview. An ES-6A is attached to the ES-6 which notifies the client that an eligibility decision cannot be made until he meets the spenddown by providing proof of medical expenses. The ES-6 must also contain any other information the client must supply in order to determine eligibility.

Once the client presents sufficient medical expenses to meet his spenddown obligation and all other Medicaid eligibility requirements are met, a NEWAP, REOPN, or APPRV transaction, is completed. Immediately after approval transaction, medical expenses are entered in the data system according to the date incurred, i.e., oldest expense first.....

The following procedures are required to accomplish the spenddown process.

- The Worker prepares an ES-6, attaches an ES-6A and gives them to the client during the intake interview or mails them after the interview.....

- The client is requested to provide proof of his medical expenses, date incurred, type of expense and amount and to submit them to the Worker by the application processing deadline.

- When the bills or verification are received, the Worker reviews them to determine that:

- The expenses were incurred, they are not payable by a third party, and the client will not be reimbursed by a third party.

- The individual(s) who received the medical services is one of the people described in item b below.

- The expenses are for medical services and are appropriate to use to meet a spenddown.....

- The Worker must record pertinent information about expenses received from the client on the IM-MS-1.....

- If the client does not submit sufficient medical bills by the application processing deadline, the application is denied using reason code 0136.....”

VIII. CONCLUSIONS OF LAW:

- 1) The evidence and testimony submitted at the hearing revealed that the claimant had an onset of income from Social Security (\$448 per month initially) which exceeded the MNIL of \$200 per month and caused him to become a possible spenddown case.
- 2) The Department has followed proper procedure in determining that the SSI-Related Medicaid case must be closed and in evaluating the claimant for all other Medicaid Programs.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of February, 2007.

Thomas M. Smith
State Hearing Officer