



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 9, 2007

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 5, 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 spenddown AG's are not redetermined and are closed at the end of the 6th month of the POC. The client must apply for a new POC. [WV Income Maintenance Manual Section 1.22]

The information which was submitted at your hearing revealed that your Period of Consideration expired on December 31, 2006 and a new application is required.

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
Clarence Dillon, Dept. Hearing Rep.

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

Claimant,

v.

Action Number: 06-BOR-3483

**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 5, 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 5, 2007 on a timely appeal, filed December 28, 2006. It should also be noted that the hearing was originally scheduled for January 22, 2007 but was rescheduled at Department's request.

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 husband.

Clarence Dillon, 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 proposal to close the claimant's SSI-Related Medicaid Program case effective 12-31-06 due to the end of the six month Period of Consideration (POC).

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 1.22 M, N, & R, 6.2, 10.22, 16.9.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- I Copy of hearing summary.
- II A Copy of notification letter 8-11-06 (3 pages).
- II B Copy of notification letter 12-19-06 (2 pages).
- II C Copy of notification letter 12-28-06.
- III A Copy of WV Income Maintenance Manual Section 16.9 (2 pages).
- III B Copy of WV Income Maintenance Manual Section 1.22 (3 pages).

(It should be noted that several additional documents were included in the Department's evidence packet but were not numbered or identified as evidence and will not be admitted as evidence or considered in the hearing decision. These documents are marked as "Not Admitted" for identification purposes only.

Claimant's Exhibits:

- CI-1 Copy of Social Security benefits letter of Mr. ____.

VII. FINDINGS OF FACT:

- 1) The claimant was an active recipient of the SSI-Related Medicaid Program when notification was issued on 12-19-06 that the six (6) month Period of Consideration (POC) would end on 12-31-06 and the Medicaid case would be closed (Exhibit #II B).
- 2) The claimant had been approved for a spenddown Medicaid case effective 7-5-06 through 12-31-06 and had met the spenddown (Exhibit #II A).
- 3) The claimant requested a hearing on 12-28-06 and a letter was sent on 12-28-06 that benefits would continue pending the hearing process (Exhibit #II C) but the claimant did not receive the continued benefits.
- 4) The claimant purported that she did not receive the continued benefits letter (Exhibit #II C) and did not receive the Medicaid card for January or February, 2007, that she does not remember receiving a letter at the end of November about requiring a new

application for Medicaid but was not sure, that she does not remember meeting with [REDACTED] at the hospital, that she is facing another surgery and needs the medical card, and that she does not understand why her husband had to be included in the benefit group.

- 5) Testimony from the Department purported that the income of the spouse is counted in determining spenddown and that the case should have been continued pending the hearing decision.
- 6) The State Hearing Officer ordered the Department to provide continued benefits pending the hearing decision and informed the claimant that she could provide receipts for any medical expenses incurred in January and February, 2007 to the Department for reimbursement of any medical expenses which would have been covered by the Medicaid Program.
- 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.....”
- 8) WV Income Maintenance Manual Section 1.22 N states, in part:

"Spenddown cases are not to be redetermined and are closed at the end of the 6th month of the POC. The client must apply for a new POC".
 - 9) WV Income Maintenance Manual Section 1.22 R, 2 states, in part:

"Spenddown cases receive a computer-generated letter at the end of the 5th month of the POC. This letter informs the client that his eligibility will end at the end of the following month and that he must reapply for Medicaid coverage."
 - 10) The area of dispute involved whether the Medicaid case must be closed and the whether the claimant must reapply for a new Period of Consideration (POC) in order to be evaluated for Medicaid eligibility to continue. The State Hearing Officer finds that the regulations require that a spenddown Medicaid case be closed at the end of the six (6) month POC and that a new application be made.

VIII. CONCLUSIONS OF LAW:

- 1) Regulations in WV Income Maintenance Manual Section 1.22 N state that spenddown Medicaid cases must be closed at the end of the six (6) month POC and that the client must apply for a new POC. The proposal by the Department to close the spenddown Medicaid case was in compliance with regulations in WV Income Maintenance Manual Section 1.22 N.
- 2) The Department has followed proper procedure in determining that the spenddown Medicaid case must be closed and that a new application is required .

IX. DECISION:

It is the ruling of this Hearing Officer to **uphold** the proposal of the Department to close the SSI-Related Medicaid Program case effective 12-31-06.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of February, 2007.

Thomas M. Smith
State Hearing Officer