



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
PO Box 29  
Grafton WV 2354  
August 29, 2007

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 11, 2007. Your hearing request was based on the Department of Health and Human Resources' action concerning backdating of medical coverage from your October 3, 2006 Medicaid application.

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 Medicaid program is determined based on current regulations. One of these regulations specifies that individuals who otherwise meet eligibility requirements but who 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. Medicaid coverage may be backdated for up to three months prior to the month of application, provided all eligibility requirements were met at that time and provided the client has unpaid medical expenses. (WV Income Maintenance Manual § 10.22 & 16.3)

The information which was submitted at the hearing revealed that consideration for backdated Medicaid coverage was not adequately evaluated at the time of your October 3, 2006 application.

It is the decision of the State Hearing Officer to **reverse** the action of the Agency in not backdating your Medicaid coverage for the period prior to your October 3, 2006 application. See part IX of the attached summary for details. Sincerely,

Ron Anglin  
State Hearing Examiner  
Member, State Board of Review

cc: Chairman, Board of Review  
[REDACTED] County DHHR, Jim Cox ESS

# WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

\_\_\_\_\_,  
Claimant.

v.

Action Number 07-BOR- 1464

West Virginia Department of Health & Human Resources.  
Respondent.

## SUMMARY AND DECISION OF THE STATE HEARING OFFICER

### I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on August 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 July 11, 2007 on a timely appeal filed May 22, 2007.

### 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

Jim Cox ESS/WVDHHR- Agency Representative

Susan Davisson, ESS/WVDHHR

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Agency was correct in the period of consideration established as a result of an October 3, 2006 application made by the claimant.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 1.2 D, 10.22 & 16.3.  
42 CFR § 435.601 & 435.831 Code of Federal Regulations:

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### Agency's Exhibits:

- A-1 Combined Application and Review Form, page 1 & 10, 10/3/06
- A-2 Notification, 10/3/06
- A-3 Medical Expense Invoice, Mountain State PT, as of 8/31/06
- A-4 Notification, 10/4/06
- A-5 WVIMM 1.21, pages 103- 106.
- A-6 Notification 5/17/07

#### **VII. FINDINGS OF FACT:**

- 1) The claimant was informed in a notification dated May 17, 2007 (A-6) that her request to have her (10/3/07) Medicaid application backdated was denied. The notification included the opportunity for an administrative appeal. The claimant requested a hearing May 25, 2007. This hearing was convened July 11, 2007.
- 2) During the hearing Exhibits as noted in Section VI above were submitted.
- 3) Testimony was heard from the individuals listed in Section III above. All persons giving testimony were placed under oath.
- 4) Testimony from the agency revealed the following. A Medicaid application based on disability was taken 10/3/06. A spenddown of \$7242 was established and verification of past medical expenses was received and entered creating a period of consideration (POC) 10/1/06 thru 3/31/07. Claimant was notified 10/4/06. On 4/13/07 claimant requested that POC be backdated from 7/1/06. Request denied as backdate would need to be requested within 90 days of the first day of coverage and backdating would now entail 9 months of coverage.

5) The claimant testified that she had PT bills in July and August 2006 that the application of October 3, 2006 should have been backdated to cover. Bills totaling about \$398 from July and August 2006 have been turned over to a collection agency. She was confused about the whole process and was experiencing some psychological/emotional problems at the time.

6) Exhibit A-3 Medical Expense Invoice, Mountain State PT reveals the following: Patient responsibility- Balance Forwarded- \$7977.89, 7/19/06- \$55.00, 8/13/06- \$119.67

7) West Virginia Income Maintenance Manual § 10.21 & 10.22 (D) (11) states in part: To receive a medical card, the monthly countable income of the (Medically Needy) 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.

8) West Virginia Income Maintenance Manual § 16.3C:

#### BACKDATING MEDICAID COVERAGE

Unless specifically stated under the appropriate coverage group, Medicaid coverage may be backdated for up to three months prior to the month of application, provided all eligibility requirements were met at that time and provided the client has unpaid medical expenses.

9) West Virginia Income Maintenance Manual § 10.22, 11, a, states in part:

Once the client presents sufficient medical expenses to meet his spenddown obligation and all other Medicaid eligibility requirements are met appropriate RAPIDS procedures are followed to approve the AG and enter the spenddown.

**NOTE:** Although eligibility begins on the date that medical bills bring the spenddown amount to \$0, expenses incurred on that date which are used to meet the spenddown, as indicated on Screen AGTM are not paid by Medicaid.

If the client indicates he needs help to understand the procedure for meeting his spenddown, the Worker provides all help needed. In no instance is the client to be denied Medicaid because he is physically, mentally or emotionally unable to verify his medical expenses.

### VIII. CONCLUSIONS OF LAW:

1) Unless specifically stated under the appropriate coverage group, Medicaid coverage may be backdated for up to three months prior to the month of application, provided all eligibility requirements were met at that time and provided the client has unpaid medical expenses. Exhibit A-3, from [REDACTED] Physical Therapy reveals 2 billings on July 19, 2006 and August 13, 2006 of \$55.00 and \$119.67 for which the claimant was responsible. It appears that these expenses were not a part of the spenddown of \$7242 established at the October 3, 2006 application. The balance forwarded on this statement \$7977 would have covered that spenddown amount.

2) If the client indicates he needs help to understand the procedure for meeting his spenddown, the Worker provides all help needed. From testimony offered there is convincing evidence that the claimant for whatever reason was not fully aware of the need to backdate coverage to cover expenses not used in satisfying the spenddown amount.

#### **IX. DECISION:**

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **reverse** the agency in failing to backdate Medicaid coverage from the claimant's October 3, 2006 application. The documentation of unpaid expenses noted on the billing from [REDACTED] PT in July and August 2006 should have alerted the agency that backdating was in order. If the claimant had chosen to extend coverage rather than backdating to cover these expenses, such discussion should have been adequately documented.

The agency is directed to backdate Medicaid coverage for all or the appropriate portion the 3 month period prior to the October 3, 2006 application provided all other eligibility requirements are met and expenses are not those utilized to meet the claimant's original spenddown amount.

#### **X. RIGHT OF APPEAL:**

See Attachment.

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

**ENTERED this 29<sup>th</sup> Day of August, 2007.**

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**Ron Anglin**  
**State Hearing Examiner**

## **CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION**

**For**

### **Public Assistance Hearings, Administrative Disqualification Hearings, and Child Support Enforcement Hearings**

#### **A. CIRCUIT COURT**

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

#### **B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

#### **C. THE UNITED STATE DEPARTMENT OF AGRICULTURE**

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.