



**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

October 31, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 30, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate benefits under the Qualified Medicare Beneficiaries (QMB) 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 QMB Program is based on current policy and regulations. Some of these regulations state as follows: In order to be eligible for programs administered by the Division of Family Assistance (DFA), the total amount of countable assets cannot exceed certain amounts. The asset level for an AG of one (1) is \$4,000 for QMB. (Section 11.3 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that your countable assets exceed \$4000.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to terminate benefits under the QMB Program.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Susan Godby, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-1891

**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 30, 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 October 30, 2007 on a timely appeal, filed August 2, 2007. It should be noted that this hearing was originally scheduled for August 30, 2007 and was rescheduled to October 15, 2007 at the Claimant's request. The Claimant could not keep this appointment because of illness and the hearing was rescheduled for October 30, 2007.

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

II. PROGRAM PURPOSE:

The Program entitled Qualified Medicare Beneficiaries is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified Individuals (QI-1 and QI-2) Programs provide limited coverage under the Medicaid Program for eligible individuals or couples who are eligible for Medicare, Part A and who meet specified income tests. The QMBV program has a lower maximum income level and provides coverage of all Medicare co-insurance and deductibles as well as payment of the Medicare premium. SLIMB and QI-1 have higher maximum income levels and provide only for the payment of the Medicare Part B premium.

The maximum income level for QI-2 is 175% of the Federal Poverty Level. This program pays for a portion of the Medicare premium.

III. PARTICIPANTS:

_____ for _____, Claimant's Representative
Susan Godby, Department Hearing Representative

It should be noted that the Claimant could not attend the hearing because of illness.

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 was correct in the decision to terminate benefits because the Claimant no longer meets the financial requirements for the QMB Program.

V. APPLICABLE POLICY:

Sections 11.3 and 11.4CC #3 (2) 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 Notification Letter dated 07/23/2007
- D-3 Chapter 11.3 of the West Virginia Income Maintenance Manual
- D-4 Department's Summary

VII. FINDINGS OF FACT:

- 1) The Claimant is a recipient of QMB. This is a result of her application being approved in error. The only income in the home is Social Security in the amount of \$373. The Claimant does not receive SSI benefits.
- 2) A review of the Claimant's assets shows that she has farm equipment valued at \$900 and livestock valued at \$2430. The Claimant also owns some non-homestead property valued at \$15,360.00.
- 3) A notice was sent to the Claimant 07/23/2007. It reads in part: Your Qualified Medicare Beneficiary Coverage will stop. You will not receive this benefit after July 2007. Reason: The amount of assets is more than is allowed for this benefit. (Exhibit D-2)

- 4) Testimony from the Claimant's Representative revealed that the Claimant does not own any livestock. She does have the tractor and the property. The Claimant received the property from an inheritance. No money is owed. They are going to try and sell the property.
- 5) Section 11.3 of the West Virginia Income Maintenance Manual reads in part that to be eligible for programs administered by the Division of Family Assistance (DFA), the total amount of countable assets cannot exceed certain amounts. The asset level for an AG of one (1) is \$4,000 for QMB.
- 6) Section 11.4 CC #3 (2) of the West Virginia Income Maintenance Manual reads in part up to \$6,000 of an individual's equity in real or personal income-producing property is excluded, if it produces a net annual income of at least 6% of the excluded equity. The maximum amount of net annual income the property must produce is \$360. The equity in those properties that do not meet the 6% rule is counted as an asset..... b. Non-business real and personal property is considered necessary for an individual and/or his spouse's self-support, if it is used to produce goods and services necessary for his daily activities.

VIII. CONCLUSIONS OF LAW:

- 1) The asset level for the QMB Program is \$4,000 for a one person AG.
- 2) The Claimant's countable assets total \$16,260.
- 3) The proposed termination of the case is valid.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is correct in the decision to terminate the Claimant's benefits under the QMB Program because of excessive assets. The action described in the notification letter dated July 23, 2007 will be taken.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31st Day of October, 2007.

**Margaret M. Mann
State Hearing Officer**