



**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**

November 8, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 18, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits under the AFDC 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 Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: To be eligible for programs administered by the Division of Family Assistance (DFA), the total amount of countable assets cannot exceed certain amounts. AFDC Medicaid: \$1,000 – regardless of the number in the AG. Also, a client must receive advance notice in all situations involving adverse actions except certain situations. (Sections 11.3 & 6.3D of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you have excessive assets for AFDC Medicaid. You were not given proper notice about termination of your benefits.

It is the decision of the State Hearing Officer to reverse the proposal of the Department to terminate benefits under the AFDC Medicaid Program pending proper notification.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Stacey Brown, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-1901

**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 November 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 October 18, 2007 on a timely appeal, filed July 24, 2007. It should be noted that this hearing was originally scheduled for September 25, 2007. It was rescheduled by the State Hearing Officer to October 18, 2007 at the request of the Department. The hearing record was left open until October 31, 2007 in order for the Claimant to clarify her assets. The State Hearing Officer was notified on November 5, 2007 that the Claimant had not provided all information needed to establish her financial eligibility for Medicaid.

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

II. PROGRAM PURPOSE:

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

The Aid to Families with Dependent Children (AFDC, AFDCU for unemployed parents) Medicaid Program is designed to provide medical assistance to eligible families with children 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
Stacey Brown, 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 11.3, 11.4CC #3, 11.4LL & 6.3D #1 of the West Virginia Income Maintenance Manual
Section 780D of the Common Chapters Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Client's Fact Sheet dated 06/19/2007
- D-2 Copy of DMV Records
- D-3 Copy of [REDACTED] Loan Company Receipt dated 06/08/2007
- D-4 Copy of RAPIDS Asset Determination for AFDC Medicaid
- D-5 Copy of RAPIDS Asset Determination for SSI-Related Medicaid
- D-6 Income Maintenance Manual Section 11.4
- D-7 Termination Notice dated 07/25/2007

Correspondence:

- C-1 Notice from Stacey Brown dated 11/05/2007

VII. FINDINGS OF FACT:

- 1) The Claimant is a recipient of AFDC Medicaid. Testimony at the hearing revealed that the Claimant was in the office on 06/19/2007 to complete a review. The Claimant had previously reported that she owned property she was not living on. During the review, the Claimant indicated her home was valued at \$15,000 and the worker verified the amount that was owed on the property as \$7,089.28. In addition to the property, the Claimant also listed that she owned three vehicles. As a result of the verification, the Claimant was determined over assets for AFDC Medicaid. (Exhibits D-1, D-2, and D-3)

- 2) A notice was sent to the Claimant dated 07/25/2007 which reads in part: Action: Your 07/01/07 application for AFDC Medicaid has been denied. Reason: The amount of assets is more than is allowed for this benefit. (Exhibit D-7)
- 3) Testimony from the Department's representative revealed that the Claimant's eligibility for SSI-Related Medicaid was reviewed. It was determined she was over the asset level for that category of Medicaid. (Exhibits D-5 & D-7)
- 4) The Department's records show that the Claimant has three vehicles titled in her name. Two are unlicensed: 1992 Dodge Caravan and 1984 Buick LaSabre. Her licensed vehicle is a 1988 Chevrolet Corsica. (Exhibit D-2) The Department is counting \$130.00 as the value of the vehicles which are considered an asset. (Exhibit D-4 & D-5)
- 5) Testimony from the Claimant revealed the \$200 month rent on the non-homestead property is paid directly to [REDACTED] Loan.
- 6) At the conclusion of the hearing, the Claimant was given until 10/31/2007 to provide information to the Department in order to try and establish her eligibility for SSI-Related Medicaid. According to the Department's representative, the Claimant did not do this.
- 7) **Section 11.3 of the West Virginia Income Maintenance Manual reads:**

To be eligible for programs administered by the Division of Family Assistance (DFA), the total amount of countable assets cannot exceed certain amounts. AFDC Medicaid: \$1,000 – regardless of the number in the AG. SSI-Related Medicaid: Size of AG: 1 – \$2,000, 2 - \$3,000. Add \$50 to the asset maximum for each additional Needs Group member.

- 8) **Section 11.4CC #3 of the West Virginia Income Maintenance Manual reads in part:**

AFDC Medicaid: The equity in real property, other than homestead property, is an asset.

SSI-Related Medicaid: When the client's non-excluded real property does not meet the \$6,000 or the \$6,000/6% limitation, the equity in the property is an asset.

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.

- 9) **Section 11.4 LL #2 & #3 of the West Virginia Income Maintenance Manual reads in part:**

AFDC Medicaid: After equity is determined for each vehicle, \$1,500 is subtracted from the one with the highest equity. Any amount in excess of the \$1,500 is an asset for that vehicle. In addition, the equity in all other vehicles is counted in its entirety.

SSI-Related Medicaid: One vehicle is excluded from consideration as an asset for these coverage groups, when certain criteria regarding value and use are met. When there is

more than one vehicle, always apply the vehicle exclusions in a manner which benefits the client.

10) **Section 6.3D #1 of the West Virginia Income Maintenance Manual notes in part:**

A client must receive advance notice in all situations involving adverse actions except certain situations. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which the benefits are affected. The date of the notice must be the date it is mailed.

11) **Section 780D of Common Chapters Manual reads in part:**

The hearing officer's decision must also be based on facts as they existed at the time of the Department's action or proposed action at issue.

VIII. CONCLUSIONS OF LAW:

- 1) AFDC Medicaid policy requires that the total amount of countable assets cannot exceed \$1,000.
- 2) The Claimant's total assets exceeded \$1,000. This includes equity in non-homestead property and vehicles.
- 3) Policy requires that clients be given proper notice prior to adverse action being taken on a case. The evidence at this hearing shows that a denial letter was sent not a case termination notice.
- 4) The termination of the case is valid pending proper notification.

IX. DECISION:

It is the finding of the State Hearing Officer that the Claimant has excessive assets for the AFDC Medicaid Program. She was not given proper notice in regard to the case termination. The Department is reversed in the decision to terminate the Claimant's benefits under the AFDC Medicaid Program pending proper notification.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of November, 2007.

**Margaret M. Mann
State Hearing Officer**