



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Office of Inspector General

Board of Review

PO Box 29
Grafton WV 26354

January 24, 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 January 17, 2007. Your hearing request was based on the Department of Health and Human Resources' action to discontinue Medicaid coverage under the Qualified Medicare Beneficiary (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 Department's Medicaid programs is determined based on current regulations. The QMB program requires that countable household income meets specific income standards. For the QMB program that standard is 100 % of the Federal Poverty Level. (West Virginia Income Maintenance Manual § 10.16 E)

The information which was submitted at the hearing revealed that your monthly countable income exceeds the current standard for the Medicaid, Qualified Medicare Beneficiary (QMB) program.

It is the decision of the State Hearing Officer to **uphold** the action of the agency regarding termination of your coverage under the Medicaid Qualified Medicare Beneficiary (QMB) program.

Sincerely

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Board of Review
WVDHHR, Susan Mayle

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v.

Action Number 06-BOR-3353

**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 January 22, 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 17, 2007 on a timely appeal filed November 30, 2006.

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.

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:

_____, claimant

_____, friend to the claimant

Susan Mayle, ESW, Agency Representative.

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

IV. QUESTION TO BE DECIDED:

Was the agency correct in their action to terminate the claimant's Medicaid Qualified Medicare Beneficiary (QMB) coverage?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 10.6, 10.16, 10.22, 16.6, Chapter 10 App A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Agency's Exhibits:

E-1- Notification, 10/20/06

E-2- Income calculations

E-3- WVIMM Chapter 10 Appendix A

VII. FINDINGS OF FACT:

1) Based on an October 20, 2006 notification (E-1) of QMB termination, the claimant requested a hearing November 30, 2006. A hearing was scheduled for and convened January 17, 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) There appears no dispute as to the facts of the case. At the time of the agency's action to

discontinue benefits, the claimant's Social Security benefits totaled \$268.00 including her Medicare premium. The claimant's spouse had Social Security benefits of \$919.50. Income before any deductions totaled \$1187.50.

5) The agency provided testimony that due to an agency error the case had originally been approved counting only the claimants' net incomes- after the Medicare premium had been deducted. This error was noted during an October 2006 case review and action was taken to correct the case. This resulted in termination of the claimant's QMB case and established eligibility for coverage under the Medicaid SLIMB program which provides payment of the Medicare premium but no co-payments.

6) West Virginia Income Maintenance Manual § 10.2 states in part: The determination of countable income is necessary, because it is, generally, the countable income which is tested against maximum income limits.

7) West Virginia Income Maintenance Manual § 10.3 MMM - QMB –Unearned (Income). Count the amount of the client's entitlement. This includes any amount deducted for Medicare, if applicable.

8) West Virginia Income Maintenance Manual § 10.22 contains policy relating to income disregards and deductions for the Medicaid program. The allowable deduction from unearned income is \$20.00.

9) West Virginia Income Maintenance Manual, Chapter 10 Appendix reveals the QMB program maximum allowable income for a 2 person household is \$1100 (100% of FPL).

VIII. CONCLUSIONS OF LAW:

1) Policy provides that for purposes of the QMB program the total the amount of the individual's entitlement is counted. This includes any amount deducted for Medicare. Therefore the income considered at the time of case termination was \$1187.50.

2) The only allowable deduction from unearned income for the QMB program is a standard \$20. Application of this disregard results in a countable income of \$1167.50

3) 100% of the Federal Poverty Level for 2 persons or the QMB limit to qualify for program coverage is \$1100. The claimant's countable income clearly exceeds the maximum allowable.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency in finding the claimant ineligible for coverage under the Medicaid, Qualified Medicare Beneficiary program. It is noted that the claimant does qualify for the SLIMB program which covers payment of her Medicare premium.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 24th Day of January 2007.

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.