



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 Mr. _____:

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' proposal to discontinue Medicaid coverage under the Qualified Individuals (QI-1) 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 Medical programs is determined based on current regulations. Medicaid SLIMB and QI-1 programs entail income testing and provide only for the payment of the Medicare Part B premium. (West Virginia Income Maintenance Manual § 16.6 E)

The information which was submitted at the hearing revealed that your monthly countable income exceeds the current standard for the Medicaid - Qualified Individuals (QI-1) Program.

It is the decision of the State Hearing Officer to **uphold** the proposal of the agency regarding closure of your Medicaid - Qualified Individuals (QI-1) case.

Sincerely

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Board of Review
WVDHHR, Stacy North

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v.

Action Number 06-BOR-3445

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 December 18, 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

Mark Tennant, FSS, 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 proposal to terminate the claimant's Medicaid Qualified Individuals (QI-1) case?

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- Medical Assistance Review, 11/29/06

E-2- WVIMM 16.6 E

E-3- WVIMM 10.16

E-4- WVIMM 10.22

E-5- Earnings verification, 10/29/06 & 11/12/06

E-6- WVIMM 10.6

E-7- WVIMM Chapter 10 Appendix A

Claimant's Exhibits:

C-1- Household and medical expenses

VII. FINDINGS OF FACT:

1) Based on a notification of case termination resulting from an 11/20/06 case review, the claimant requested a hearing 12/18/06. A hearing was scheduled for and convened 1/17/06.

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. The claimant's Social Security benefits total \$1022 including Medicare premium. The claimant's spouse has earnings which when converted to a monthly amount total \$1191.36. After disregards of \$20 from unearned income and \$ 65 and ½ of the remainder from earnings a total countable income of \$1563 remains.

5) 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.

6) West Virginia Income Maintenance Manual § 10.3 MMM – QI-1 –Unearned (Income). Count the amount of the client's entitlement. This includes any amount deducted for Medicare, if applicable.

7) West Virginia Income Maintenance Manual § 10.22 contains policy relating to income disregards and deductions for the Medicaid program. The allowable disregard from unearned income is \$20.00. The disregard applied to earned income is \$65 and ½ of the remainder.

8) West Virginia Income Maintenance Manual, Chapter 10 Appendix reveals the QI-1 program maximum allowable income for a 2 person household is \$1485 (135% of FPL).

VIII. CONCLUSIONS OF LAW:

1) Policy directs that a determination of countable income is necessary, because it is the countable income which is tested against maximum income limits. Evidence reveals that household monthly income consisted of \$1022 in Social Security benefits and earnings of \$1191.36 at the time of the proposed case termination.

2) Policy provides that for purposes of the QI-1 program the total the amount of the individual's entitlement (unearned income) is counted. This includes any amount deducted for Medicare. The only allowable deduction from unearned income is \$20. Therefore the unearned income considered at this point is \$1002.00.

3) Countable earned income consists of the converted monthly total, in this case \$1191.36 less a \$65 and ½ of the remainder. This results in a remaining countable income of \$563.18

- 4) The total of countable income is tested against maximum income limits. Countable earned and unearned income after all applicable deductions and disregards totals \$1563.
- 5) 135% of the Federal Poverty Level for 2 persons or the limit to qualify for the QI-1 program is \$1485 (WVIMM Chapter 10 Appendix A). 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 the Medicaid Qualified Individual (QI-1) program.

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.