



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 29, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 1, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to terminate Spenddown Medicaid.

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.

Current Medicaid regulations provide as follows: Spenddown Assistance Groups are not redetermined and are closed at the end of the 6th month of the Period of Consideration. The client must reapply for a new Period of Consideration (West Virginia Income Maintenance Manual, Chapter 1.22, N).

Information submitted at your hearing revealed that your Period of Consideration ended and a new Spenddown was not met.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate Spenddown Medicaid.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Kenneth Smith, Economic Service Worker

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

_____,
Claimant,

v.

Action Number: 08-BOR-1028

**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 September 29, 2008 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 May 1, 2008 on a timely appeal, filed February 27, 2008.

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 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services, (BMS), is responsible for the development of regulations to implement Federal and State requirements for the program. The Department of Health & Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

_____, Claimant
Kenneth Smith, Economic Service Worker, DHHR

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department is correct in terminating Spenddown Medicaid.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.22

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Summary
- D-2 Notification of Medicaid termination dated February 15, 2008
- D-3 Notification of Medicaid approval dated August 29, 2007
- D-4 West Virginia Income Maintenance Manual, Chapter 1.22
- D-5 Case Comments

VII. FINDINGS OF FACT:

- 1) On August 27, 2007, the Claimant applied for Medicaid, met a Spenddown and was approved for a six (6) month Period of Consideration (POC). The Claimant was notified of this approval on or about August 29, 2007 (Exhibit D-3). This notification advised the Claimant of the time limit for the program, stating in pertinent part:

The amount of time you are to receive this Medicaid is 09/01/07 to 02/28/08.

- 2) The Claimant was notified, on or about February 15, 2008 (Exhibit D-2) that Medicaid would be terminated at the end of that month. The notification stated, in pertinent part:

1. ACTION: Your Medicaid will end on 02/29/08.

2. REASON: The time limit for this coverage has expired.

If you wish to be re-evaluated for Medicaid, you must reapply for coverage.

- 3) The West Virginia Income Maintenance Manual, Chapter 1.22, N, 2, states:

2. Spenddown

Spenddown AG's are not redetermined and are closed at the end of the 6th month of the POC. The client must reapply for a new POC. The last month of the 6-month POC is coded in the data system.

- 4) The West Virginia Income Maintenance Manual, Chapter 1.22, R, 2, states:

2. Spenddown

a. The Redetermination List

There is no redetermination list.

b. The Date of the Redetermination

Applicants may come into the office at any time to reapply for a new POC.

c. Scheduling the Redetermination

These AG's are not scheduled for a redetermination. The client must apply for a new POC.

d. Client Notification

Spenddown AG's receive a computer-generated letter at the end of the 5th month of the POC. This letter informs the client that his eligibility will end at the end of the following month and that he must reapply for Medicaid coverage.

- 5) The Claimant testified that she needs Medicaid to pay for her medication, and she needs her medication to survive. She testified that she is unable to meet a new Spenddown, does not have the income to pay for her medications on her own, and would not be able to accumulate unpaid medical bills to meet a Spenddown.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires that Medicaid cases based on a Spenddown must reapply at the end of their POC and meet a new Spenddown to be approved for a new POC.
- 2) Testimony and evidence clearly showed that the Claimant had reached the end of her POC and was unable to meet a new Spenddown. Initial approval notification correctly identified the POC, and closure notification was also timely and correct. The Department was correct in its decision to terminate Spenddown Medicaid.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's termination of Spenddown Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of September, 2008.

Todd Thornton
State Hearing Officer