



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 2590  
Fairmont, WV 26555

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

April 16, 2008

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 9, 2008. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Medicaid Qualifying Individuals (QI-1) benefits.

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 Qualifying Individuals Program is based on current policy and regulations. Some of these regulations state as follows: Countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. To be eligible for QI-1 coverage, income must be less than or equal to 135 percent of the Federal Poverty Level for the Needs Group size. (West Virginia Income Maintenance Manual Section 10.16)

The information submitted at your hearing reveals that your countable household income is in excess of the maximum allowable income to receive QI-1 benefits.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in terminating your QI-1 benefits based on excessive income.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review  
Tiffany Johnson, ESW, DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 08-BOR-1055**

**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 April 9, 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 April 9, 2008 on a timely appeal filed March 14, 2008.

**II. PROGRAM PURPOSE:**

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

The Qualified Medicare Beneficiary (QMB), the Specified Low Income Medicare Beneficiary (SLIMB), and the Qualifying Individuals (QI-1) 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 QMB 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.

### **III. PARTICIPANTS:**

\_\_\_\_\_, Claimant's representative, [REDACTED] County Senior Citizens, Inc.  
Tiffany Johnson, ESW, DHHR

Presiding at the hearing was Thomas E. Arnett, 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 its action to terminate the Claimant's QI-1 benefits based on excessive income.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Sections 9.12, 10.3, 10.16, 10.22 and Chapter 10, Appendix A (4/08)

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

Exhibit 1	Pre-hearing conference request - received 2/11/08
Exhibit 2	Notice of Pre-hearing Conference - scheduled on 2/21/08
Exhibit 3	Request for a Fair Hearing before a State Hearing Officer – received 3/13/08
Exhibit 4	Hearing/Grievance Record Information (IG-BR-29)
Exhibit 5	Notice of Decision dated 1/26/08
Exhibit 6	WVIMM, Chapter 10.16
Exhibit 7	WVIMM, Chapter 10, Appendix A (4/08)

### **VII. FINDINGS OF FACT:**

1) On or about January 26, 2008, the Claimant was notified via a Notice of Decision (Exhibit 5) that his Medicaid, Qualified Individual I (QI-1), benefits were terminated effective February 2008. This notice states, in pertinent part:

1) Action: Your Qualified Individual I will stop. You will not receive this benefit after February 2008

2) Reason: Income is more that the net income limit for you to received benefits.

Your income has increased.

- 2) The Claimant was an active recipient of benefits through the Medicaid QI-1 Program when the Department was notified of an increase in the Claimant's income due to a Cost of Living Allowance (COLA) increase. As a matter of record, the Claimant's undisputed monthly income amount is now \$1195 per month.
- 3) The Department's representative purported that the Claimant is only eligible to received a \$20 unearned income disregard (\$1195-\$20) for the QI-1 Program. The Department indicated that this results in the "net" income amount of \$1175 which is then compared to the maximum allowable income for the QI-1 benefit (\$1170). Because the Claimant's income exceeds the maximum allowable income for a one (1) person Assistance Group (AG), the Department terminated the Claimant's QI-1 benefits.
- 4) West Virginia Income Maintenance Manual Section 10.16, B states that countable income for the QI-1 Program is determined by subtracting any allowable disregards and deductions from the total non-excluded income. Allowable disregards and deductions are the SSI disregards/deductions specified in Section 10.22, B. The total monthly countable income is then compared to the QI-1 income level for the appropriate number of persons.
- 5) West Virginia Income Maintenance Manual Section 10.22, B, Unearned Income Disregards and Deductions states:
  - SSI \$20 Disregard: A \$20 Disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.
  - NOTE: The SSI \$20 disregard is not applied to any unearned income received which is based on need. This includes, but is not limited to, VA benefits based on need. See VA Benefits in Section 10.3.
  - Unearned Income Diverted to a PASS: Any unearned income diverted to a PASS account is deducted from income.
  - For SSI-Related Children Only: 1/3 of the child support intended for the SSI-Related child is disregarded.
  - Death Benefits: The portion of a lump sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual, is deducted.
- 6) West Virginia Income Maintenance Manual Section 10.3 TTT states that Social Security benefits are considered as unearned income for the QI-1 Program.
- 7) West Virginia Income Maintenance Manual Section 9.12 states that the income limit for a one person group is used when the QI-1 Needs Group consists of only one individual.

- 8) West Virginia Income Maintenance Manual Section 10, Appendix A (April 2008), (Exhibit 7), indicates that the QI-1 income limit for an AG of 1 is \$1170.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that countable income for the QI-1 Program is determined by subtracting any allowable disregards and deductions from the total gross unearned income. The remaining [net] income is then compared to the QI-1 income limit for the number of individuals in the Needs Group.
- 2) Policy specifies that Social Security benefits are counted as unearned income for the QI-1 program and must be included in the income calculation. The QI-1 income limit for a one (1) person AG is \$1170.
- 3) Total gross income for the Claimant is \$1195 and the only deduction for which he qualifies is the \$20 SSI Disregard. Therefore, the Claimant's total countable [net] income is \$1175.
- 4) Because household income is excessive for the QI-1 Program based on the income limit for one (1) person AG, the Department acted correctly in terminating the Claimant's QI-1 benefits.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in terminating the Claimant's QI-1 benefits.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16<sup>th</sup> Day of April, 2008.**

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**Thomas E. Arnett  
State Hearing Officer**