



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

October 2, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 3, 2008. Your hearing request was based on the Department of Health and Human Resources' termination of SSI Medicaid and reduction in your Food Stamp 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 Medicaid Program and the Food Stamp Program is based on current policy and regulations. One of these regulations state that SSA (Social Security Administration) provides the Department with information on pensions, earnings, net earnings from self-employment, RSDI, SSI and other related benefit information received through SSA. (West Virginia Income Maintenance Manual, Chapter 3.3, B)

The information that was submitted at your hearing revealed that the Department was correct in its use of income information provided by the SSA in its determination that you were no longer eligible for SSI Medicaid, and in its proposed action to reduce your Food Stamp benefits.

It is the decision of the State Hearing Officer to **uphold** both the proposed action of the Department to terminate SSI Medicaid and the proposed action to reduce your Food Stamp benefits.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tammy Stamper, Economic Service Worker

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

_____,
Claimant,

v.

**Action Numbers: 08-BOR-1094
08-BOR-2234**

**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 October 2, 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 June 3, 2008 on a timely appeal, filed March 19, 2008.

II. PROGRAM PURPOSE:

The Programs entitled Medicaid and Food Stamps are set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The amendment to the Social Security Act which established SSI and subsequent rules and regulations gave the states the same options regarding Medicaid coverage for SSI recipients. West Virginia elected to cover all SSI recipients and to accept SSA's determination process for SSI Medicaid. Consequently there is no application or eligibility determination process for SSI Medicaid. Instead the Department depends upon SSA for the information needed to open and close SSI Medicaid cases.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the

issuance of EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

_____, Claimant

Tammy Stamper, Economic Service Worker

Tammy McSweeney*, Economic Service Worker

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

* Observing only; did not offer testimony.

IV. QUESTIONS TO BE DECIDED:

The questions to be decided are whether the Department acted correctly to terminate SSI Medicaid and to reduce Food Stamp benefits of the Claimant in response to SSA information about his income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 3.3

West Virginia Income Maintenance Manual, Chapter 10.3

West Virginia Income Maintenance Manual, Chapter 10.4

West Virginia Income Maintenance Manual, Chapter 16.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification of Food Stamp reduction and Medicaid termination, dated March 11, 2008
- D-2 West Virginia Income Maintenance Manual, Chapter 10.4, C; Chapter 16.6, A
- D-3 Data Exchange Screen Prints
- D-4 Notification of Food Stamp reduction, dated March 15, 2008
- D-5 West Virginia Income Maintenance Manual, Chapter 10.4, B
- D-6 Notification of Medicaid reinstatement, dated March 20, 2008
- D-7 Case Comments from March 10, 2008 through March 25, 2008

Claimant's Exhibits:

- C-1 Agreed Motion to Dismiss the Petition for Writ of Mandamus and Writ of Prohibition
- C-2 Petition for Writ of Mandamus and for Writ of Prohibition

VII. FINDINGS OF FACT:

- 1) The Department received information from the Social Security Administration (SSA) in the form of a data exchange (Exhibit D-3) that the Claimant was no longer receiving SSI and that he had been approved for RSDI. The Department acted on this information by terminating the Claimant's Medicaid and reducing his Food Stamp benefits. The

Claimant was notified of these actions on or about March 11, 2008 (Exhibit D-1). The notification to the Claimant states, in pertinent part for Food Stamps:

1. ACTION: Your Food Stamps will decrease from \$64.00 to \$19.00 effective 04/01/08.
2. REASON: Your income has increased.

It continues to state, in pertinent part for Medicaid:

1. ACTION: Your SSI Medicaid will stop. You will not receive this benefit after MARCH 2008.
2. The individual listed below no longer receives SSI.

The following individuals are ineligible.

This individual no longer receives SSI.

- 2) The West Virginia Income Maintenance Manual, Chapter 10.4, A, explains that both unearned income is counted in the Food Stamp eligibility process as follows, in pertinent part:

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned **and unearned income**. (emphasis added)

- 3) The West Virginia Income Maintenance Manual, Chapter 10.3, MMM and Chapter 10.3, VVV, list both RSDI and SSI in a table of income sources as unearned income for the Food Stamp Program.
- 4) The West Virginia Income Maintenance Manual, Chapter 3.3, B, 1, a, states, in pertinent part:

Beneficiary and Earnings Data Exchange (BENDEX)

The BENDEX data exchange occurs daily. Information received includes Retirement, Survivors and Disability Insurance (RSDI) amounts and Medicare eligibility and premiums.

This information is considered verified upon receipt for the Food Stamp Program and **is not subject to independent verification for any program**. (emphasis added)

- 5) The West Virginia Income Maintenance Manual, Chapter 16.6, A, states, in pertinent part:

SSI is a public assistance program administered by the Social Security Administration (SSA), which provides cash benefits to eligible aged, disabled or blind individuals.

The Program began in January, 1974. As of the 1st day of that month, all individuals who were receiving state-administered Old Age Assistance (OAA), Aid to the Disabled (AD) and Aid to the Blind (AB) were converted to SSI. At the same time, SSA Offices began processing applications made directly to them.

The amendment to the Social Security Act which established SSI and subsequent rules and regulations gave the states some options regarding Medicaid coverage for SSI recipients.

West Virginia elected to cover all SSI recipients and to accept SSA's determination of eligibility for SSI as the sole eligibility determination for Medicaid. West Virginia is, then, referred to as a "1634 state" based on the section of the Social Security Act which allows this.

Consequently, there is no application or eligibility determination process for SSI Medicaid. **The Department depends upon SSA for the information needed to open, evaluate and close continuing eligibility for SSI Medicaid cases.**

A data exchange between DHHR and SSA results in information used by the Worker to open the SSI Medicaid benefit. (emphasis added)

- 6) The Claimant offered testimony and evidence (Exhibits C-1 and C-2) contending that the Department's policy and hearing process were "non-enforceable." The exhibits were reviewed and showed no relevance to this hearing.
- 7) The Claimant explained that he is in the process of appealing the decision of the SSA to award him RSDI instead of SSI. He did not provide evidence or testimony that their decision had been reversed and the income type changed.
- 8) The Claimant contended that the Department can approve Medicaid without the receipt of SSI, and made apparent references to Medicaid programs other than SSI Medicaid. The scope of this hearing was limited to SSI Medicaid and Food Stamps.

VIII. CONCLUSIONS OF LAW:

- 1) The Department received information in the form of a data exchange from the SSA on the Claimant's case. The Department showed that they acted correctly according to policy in response to this information.

- 2) The Department acted to close a type of Medicaid for which eligibility is entirely dependent on the receipt of SSI, based on the information from SSA that the Claimant no longer received SSI. Policy clearly shows that the Department was correct to rely on the data exchange from SSA to take this action.
- 3) The Department further acted to update the type and amount of unearned income counted on the Claimant's Food Stamp case, reducing his Food Stamp benefits. The income change from SSI to RSDI was again verified by a data exchange with SSA, as were the income amounts. Policy clearly shows that the Department was correct to act on this information without any further verification.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposed action to terminate SSI Medicaid and reduce Food Stamp benefits of the Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of October, 2008.

**Todd Thornton
State Hearing Officer**