



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 21, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 19, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny your Qualified Individual (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 Qualified Individual 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)

Information submitted at your hearing reveals that your countable gross income is excessive for the QI-1 Program based on the income limit for an individual.

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

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cynthia Myers, FSS, DHHR

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

_____,

Claimant,

v.

Action Number: 08-BOR-2227

**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 November 21, 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 November 19, 2008 on a timely appeal filed September 24, 2008 and received by the Hearing Officer on November 3, 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 Qualified Individual (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
Cynthia Myers, Family Support Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

It should be noted that all parties participated telephonically.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in its decision to deny the Claimant's QI-1 benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 9.12, 10.3, 10.16, 10.22 and Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of Decision dated September 18, 2008
- D-2 West Virginia Income Maintenance Manual Sections 1.2, 10-Appendix A, and 16.6
- D-3 Verification checklist dated October 23, 2008

VII. FINDINGS OF FACT:

- 1) The Claimant applied for Food Stamps, Qualified Individual, hereinafter QI-1, and SSI-Related Medicaid on September 9, 2008. The application was pended for bank account verification.
- 2) Upon receipt of the requested verification on September 17, 2008, the Department determined that the Claimant's monthly gross income is excessive for the QI-1 Program. The Department sent the Claimant a Notice of Decision on September 18, 2008 (D-1).
- 3) The Family Support Supervisor testified that the Claimant's total gross monthly Social Security income is \$1,218.40 and the income range for a one-person QI-1 Needs Group is \$1,041-\$1,170 per month. She stated that the Claimant's SSI-Related

Medicaid application is still pending verification of medical bills to be applied toward a spenddown.

- 4) The Claimant did not dispute the Department's income calculation, but questioned why the Department's eligibility guidelines do not consider increases in the cost of living and economic downturns. He testified that he had always previously been employed and only needs assistance temporarily. The Claimant stated that he may lose his home and has been forced to borrow money from others.
- 5) 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.
- 6) West Virginia Income Maintenance Manual Section 10.22, B, Unearned Income Disregards and Deductions:

- 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.

- 7) West Virginia Income Maintenance Manual Section 9.12 states that the income limit for one person is used when the QI-1 Needs Group consists of an eligible individual.

- 8) West Virginia Income Maintenance Manual Section 10, Appendix A (effective July 2008), (D-2), states that the QI-1 income range for one person is \$1,041- \$1,170.
- 9) West Virginia Income Maintenance Manual Section 10.3 TTT states that Social Security benefits are considered as unearned income for the QI-1 Program.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that countable income for the QI-1 Program is determined by subtracting any allowable disregards and deductions from the total non-excluded income. The 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 QI-1 purposes and must be included in the income calculation.
- 3) The QI-1 income limit for one person (\$1,170) must be used for a one-person Needs Group.
- 4) The Claimant's total gross monthly income is \$1,218.40 and the only deduction for which he qualifies is the \$20 SSI Disregard. Therefore, total countable income is \$1,198.40.
- 5) Because countable income is excessive for the QI-1 Program based on the income limit for an eligible individual, the Department acted correctly in denying the Claimant's QI-1 benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to deny 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 21st Day of November, 2008.

Pamela L. Hinzman
State Hearing Officer