



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

March 28, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 27, 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
Michelle Allison, ESW, DHHR

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

Claimant,

v.

Action Number: 07-BOR-2597

**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 March 28, 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 March 27, 2008 on a timely appeal filed December 7, 2007.

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
_____, Claimant's son / representative
Michelle Allison, ESW, DHHR
Lori Brown, 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 decision to terminate 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 (1/08)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of Decision dated 12/10/07
- D-2 SSI-Related MA Eligibility Determination (income calculations)
- D-3 WVIMM Chapter 10.22
- D-4 WVIMM, Chapter 10, Appendix A (Effective 1/08)

VII. FINDINGS OF FACT:

- 1) On or about December 10, 2007, the Claimant was notified via a Notice of Decision (D-1) that her Medicaid, Qualified Individual I (QI-1), benefits were terminated effective December 2007. The reason is as follows:

Income is more than the net income limit for you to receive benefits.

Your income has increased.

- 2) The Claimant contends that she was determined eligible for QI-1 benefits last year and that nothing has changed. The Claimant does not understand how she could have been eligible from the previous application but not this year. She contends that her monthly income should be counted after the Medicare premium has been deducted.
- 3) While it was noted at the hearing the calculations from the previous year would be revisited in the decision, there is no relief that can be provided by revisiting this issue. If the calculations were incorrect, and the Claimant was awarded benefits for which she was not entitled, there is currently no repayment mechanism in place to recoup the overpayment. Furthermore, policy found in the West Virginia Income Maintenance Manual at 1.15, N states that QI-1 redeterminations are due in December of each year, regardless of the beginning month of eligibility. Therefore, the Claimant was required to undergo a redetermination to establish continued eligibility and past eligibility has no bearing on a redetermination.
- 4) As a matter of record, all parties agreed that the Claimant's monthly unearned income amount (total non-excluded income) from Social Security is \$1199 (effective January 2008). While the Claimant indicated nothing has changed, it was noted by the Department that the Claimant received a Cost of Living Allowance (COLA) increase from the previous year.
- 5) The Department's representative purported that the Claimant is only eligible to receive a \$20 unearned income disregard (\$1199-\$20) for the QI-1 Program. The Department indicated that this results in the "net" income amount of \$1179 which is then compared to the maximum allowable income for the QI-1 benefit (\$1049). 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.
- 6) 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 [emphasis added]. 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.
- 7) West Virginia Income Maintenance Manual Section 10.22, B, Unearned Income Disregards and Deductions (D-3):
 - SSI \$20 Disregard: A \$20 Disregard is applied to the total gross unearned income [emphasis added]. 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.

- 8) West Virginia Income Maintenance Manual Section 10.3 TTT states that Social Security benefits are considered as unearned income for the QI-1 Program.
- 9) 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.
- 10) West Virginia Income Maintenance Manual Section 10, Appendix A (January 2008), (D-4), states that the QI-1 income limit AG of 1 is \$1149.

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 gross unearned income. *There are no provisions in policy to indicate that the Claimant's Medicare premium is deducted.* 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 \$1149.
- 3) Total gross income for the Claimant is \$1199 and the only deduction for which she qualifies is the \$20 SSI Disregard. Therefore, the Claimant's total countable [net] income is \$1179.
- 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 to terminate 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 28th Day of March, 2008.

**Thomas E. Arnett
State Hearing Officer**