



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 10, 2008

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 6, 2008. Your hearing request was based on the Department of Health and Human Resources' action to terminate/deny your SSI-Related Medicaid benefits based on the end of the Period of Consideration (POC).

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 SSI-Related Medicaid program is based on current regulations. One of these regulations states that individuals who otherwise meet eligibility requirements but have income in excess of the established standard will be ineligible for medical coverage unless this excess is insufficient to meet their medical needs. These individuals are required to "spenddown" this excess amount in order to qualify for coverage. For Medicaid purposes, a 6 month period of consideration (POC) is utilized to project countable income. 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. (West Virginia Income Maintenance Manual ' 1.22, 16.9 & 10.22)

The information submitted at your hearing reveals that your POC expired effective January 31, 2008 and that you failed to submit medical bills to satisfy the required spenddown amount for a new POC during your January 23, 2008 application. As a result, the Department correctly terminated/denied your SSI-Related Medicaid benefits.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Department in terminating/denying your SSI-Related Medicaid benefits.

Sincerely,

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

Pc: Chairman, Board of Review
Bethany Turkaly, ESW, DHHR

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

Claimant,

V.

Action Number: 08-BOR-737

**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 10, 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 6, 2008 on a timely appeal filed January 23, 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.

SSI-Related Medicaid is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as either aged, disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

_____, Claimant
Bethany Turkaly, 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 to be decided is whether the Department was correct in its proposal to terminate/deny the Claimant's SSI-Related Medicaid benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 1.22 and 10.22 (A), (B) and (D)
42 CFR ' 435.831 Code of Federal Regulations:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVIMM Chapter 1.22 & 10.22
- D-2 Calculation of Spenddown amount
- D-3 WVIMM Chapter 10, Appendix A
- D-4 Verification Checklist dated 1/24/08

Claimant's Exhibits:

- C-1 Notice of Decision dated 1/25/08

VII. FINDINGS OF FACT:

- 1) On or about January 18, 2008, the Claimant was notified via a Notice of Decision that his Medicaid benefits will end on 1/31/08. This notice indicates the following reason: "The time limit for this coverage has expired."
- 2) The Department presented testimony to indicate the Claimant's wife (_____) was approved for SSI-Related Medicaid (with the spenddown provision) following an application completed in July 2007. The six (6) month Period of Consideration (POC) was determined to be August 2007 through January 2008.
- 3) Subsequent to receiving the notice of termination, the Claimant completed an application for a new POC on January 23, 2008. The Claimant was provided a written verification checklist dated 1/24/08 (Exhibit D-4) that required him to provide medical bills to meet the new spenddown in the amount of \$9865.56 by February 22, 2008. The Department purported that the Claimant stated he did not have any medical bills because they had all been paid by Medicaid.
- 4) The amount of the Claimant's spenddown (\$9865.45) was uncontested, however, the Claimant submitted Exhibit C-1, Notice of Decision dated January 25, 2008, which states that his application dated January 23, 2008 for SSI Related Medicaid was approved for a POC beginning 2/1/08 to 7/31/08. He contends that this letter is binding and his wife should get coverage until the new POC expires on July 31, 2008. It should be noted, however, that the Claimant's appeal regarding Medicaid closure was filed on 1/23/08 - (2) two days before Exhibit C-1 was mailed.

- 5) The Department purported that the January 25, 2008 notice (Exhibit C-1) was sent in error when the computer system was manipulated to provide the Claimant with continued Medicaid benefits pending his appeal. This letter (Exhibit C-1) was inadvertently sent and the Claimant remains ineligible for SSI-Related Medicaid benefits as the previous POC expired January 31, 2008 and the Claimant has not submitted medical bills sufficient to meet the new spenddown amount.
- 6) West Virginia Income Maintenance Manual, Chapter 10.22 (C)(11):
Countable (Medicaid) income is determined by subtracting any allowable disregards and deductions... from the total non-excluded gross income.
- 7) West Virginia Income Maintenance Manual, Chapter 10.22 (D) states - To receive a medical card, the monthly countable income of the needs group must not exceed the amount of the MNIL (Medically Needy Income Level). If the income of the needs group exceeds the MNIL, the client has an opportunity to “spend” his income down to the MNIL by incurring medical expenses. These expenses are subtracted from the client=s income for the 6 month Period of Consideration (POC), until his income is at or below the MNIL for the needs group size, or until the POC expires.
Once the client presents sufficient medical expenses to meet his spenddown obligation...medical expenses are entered in the data system according to the date incurred, i.e., oldest expense first.
... eligibility begins on the date that medical bills bring the spenddown amount to \$0.
... medical expenses, which are not subject to payment by a third party and for which the client will not be reimbursed, are used to reduce or eliminate the spenddown.
- 8) West Virginia Income Maintenance Manual, Chapter 10.22 (A) & (B):
Medically Needy cases have a fixed Period of Consideration (POC) and the total income for the 6 month period is used to determine the spenddown amount. The disregard for unearned income is \$20 monthly and the protected income level for a 2 person benefit group (MNIL) is \$275 monthly. The Claimant’s income, less \$200 (MNIL), less \$20 (unearned income deduction), multiplied by 6 (the POC) results in the spenddown amount.
- 9) West Virginia Income Maintenance Manual, Chapter 1.21 & 1.22 states that 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.
- 10) The Department of Health and Human Resources, Common Chapters Manual, 760.C (Time Limit for Reinstatement of Assistance) states that assistance shall be reinstated if the client or recipient of services requests a hearing or pre-hearing conference within 13 days from the date of the notification letter.
- 11) West Virginia Income Maintenance Manual, Chapter 10.21 (C)(11) (a) states that if the client does not submit sufficient medical bills by the application processing deadline (30 days) (to satisfy the spenddown amount), the application is denied.

- 12) Individuals who receive Medicaid experience the same kinds of changes between application and redetermination and between redeterminations as individuals who receive Food Stamp benefits and WV WORKS. For Medicaid, there is no benefit level determined. Therefore, the individual is either eligible or ineligible. Every reported change results in a redetermination of eligibility.

VIII. CONCLUSIONS OF LAW:

- 1) Evidence reveals that the Claimant was eligible for SSI-Related Medicaid for a period of six (6) months – July 1, 2007 through January 31, 2008.
- 2) The policy that governs the SSI-Related Medicaid Spenddown provision fails to provide circumstances that would allow the six (6) month period of consideration to be extended and states - “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.
- 3) The Claimant presented his appeal on the basis that he received notice (Exhibit C-1 dated 1/25/08) indicating his January 23, 2008 application was approved, when in fact his appeal was filed on January 23, 2008 on the basis of Medicaid closure – (2) two days prior to this notice being sent. While the Claimant’s argument is not completely without merit, it is clear that his original appeal was filed on January 23, 2008 to contest the expiration of his previous POC and his inability to meet the new spenddown amount. The Claimant did not submit any new medical bills to meet his spenddown amount or present a change in circumstance that would have changed his eligibility determination. The evidence supports the conclusion that the January 25, 2008 notice was issued in error when the Department manipulated its computer system to comply with the Claimant’s request for continued benefits. While this notice was clearly wrong, Medicaid, not unlike other programs administered by the Department, is subject to redetermination and every reported change results in an evaluation of eligibility - Therefore, the notice sent to the Claimant in error is not binding.
- 4) Based on the evidence, the Department is correct in determining that the Claimant is no longer eligible for SSI-Related Medicaid based on the spenddown provision.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department in terminating/denying SSI-Related Medicaid benefits based on the spenddown provision.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 10th day of March, 2008.

**Thomas E. Arnett
State Hearing Officer**