



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 22, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 15, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for benefits through the Qualified Medicare Beneficiary (QMB) Program.

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 Medicare Beneficiary Program is based on current policy and regulations. Some of these regulations state as follows: To be eligible for programs administered by the Office of Family Support (OFS), the total amount of countable assets cannot exceed certain amounts. The QMB asset level for an AG of one is \$4,000. (Section 11.3 of the West Virginia Income Maintenance Manual)

The information submitted at your hearing reveals that your assets exceed the maximum allowable asset limit for participation in the Medicaid QMB program. As a result, the Department was correct to deny your application for QMB benefits.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for Medicaid benefits through the Qualified Medicare Beneficiary (QMB) Program.

Sincerely,

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

Pc: Erika H. Young, Chairman, Board of Review
Sally Shreve, ESS, DHHR

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

_____,
Claimant,

v.

Action Number: 08-BOR-760

**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 22, 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 15, 2008 on a timely appeal, filed January 14, 2008.

It should be noted here that the claimant's benefits have been denied.

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
Sally Shreve, ESS, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

All parties participated telephonically.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department is correct in the decision to deny coverage under QMB as the claimant did not meet the financial requirements.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 11.3 and 11.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of Decision dated 1/23/08
- D-2 Correspondence from State Farm Insurance dated 1/9/08 – Cash value of life insurance
- D-3 Correspondence from _____ dated 1/14/08
- D-4 WesBanco Bank, Inc. – Bank statement for _____ dated 11/21/07
- D-5 Life Policy Status dated 11/19/07
- D-6 DFA-QSQ-1 – Application for QMB received 11/21/07
- D-7 WVIMM, Chapter 11.3

VII. FINDINGS OF FACT:

- 1) On November 21, 2007, the Department received an application (D-6) from the Claimant for benefits through the Medicaid Qualified Medicare Benefits (QMB) Program. Section III of Exhibit D-6 (Assets of Applicant and Legal Spouse) indicates that the Claimant reported that she has a life insurance policy through State Farm.
- 2) In order to be eligible for the Medicaid QMB Program, an applicant must be determined financially eligible (income and assets). As a result, the Department required the Claimant to verify her monthly income and assets (bank statement and cash value of her life insurance policy through State Farm).

- 3) The Claimant's monthly income, as noted in Exhibit D-6 (application) is \$597 per month Social Security and \$367 Widow Disability for a total monthly income of \$964. Countable assets were determined to be \$487.06 (WesBanco account, Exhibit D-4) and \$6,291.15 (cash surrender value of State Farm Life Insurance Policy, Exhibit D-2) for a total of \$6,778.21
- 4) On or about January 23, 2008, the Claimant was notified via a Notice of Denial that her application for benefit through the Medicaid QMB Program was denied. This notice states, in pertinent part:

ACTION: Your 11/21/07 application for Qualified Medicare Beneficiary Coverage has been DENIED.

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

The amount of assets is more than is allowed for this benefit.

- 5) Exhibit D-2, verification of life insurance cash value states, in pertinent part:

The life policy # 1352-8954 for _____ has cash value of \$6,291.15. This money is available to the policyholder as a loan. The loan can be repaid in installments. If payments toward the interest and loan are not made, the policy could lapse for lack of funds in the policy. Any remaining loan balance at time of death, will be deducted from the death benefit.

- 6) It should be noted that excessive income was cited on the Notice of Decision (D-1) as a reason for denial, and while that evidence was not explored during the hearing, the West Virginia Income Maintenance Manual, Chapter 10, Appendix A (10/07) indicates the maximum allowable income (after allowable income deduction of \$20) for the QMB Program at the time of application was \$851. (These calculations can be found on page 3 of Exhibit D-1)
- 7) The West Virginia Income Maintenance Manual, Chapter 11.3 states: To be eligible for programs administered by the Office of Family Support (OFS), the total amount of countable assets cannot exceed certain amounts. The QMB asset level for an AG of one is \$4,000.00.
- 8) West Virginia Income Maintenance Manual, Chapter 11.4.T indicates that SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, SLIMB and QI-1 must consider LIFE INSURANCE (Cash Surrender Value) when determining asset eligibility and states - If the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of \$1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that the cash surrender value of a life insurance policy counts as an asset when determining financial eligibility for participation in the Medicaid QMB Program. Policy further dictates that the maximum allowable asset limit for the QMB Program (one person assistance group) is \$4,000.
- 2) The Claimant contends that she only has access to the life insurance value through a loan, however, cash value is available to the Claimant and any unpaid balance would simply be deducted from the death benefit. Based on this fact, the life insurance cash value of \$6,291.15 is available to the Claimant, and when combined with cash included in her WesBanco account, the Claimant's asset total at the time of application was correctly determined to be \$6,778.21.
- 3) Based on the evidence, the Claimant monthly income and assets exceeded the maximum allowable income and assets allowed for participation in the Medicaid QMB Program.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant's application for Medicaid benefits through the Qualified Medicare Beneficiary (QMB) Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of April, 2008.

**Thomas E. Arnett
State Hearing Officer**