



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 19, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 24, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny your Medicaid application due to excessive assets.

In arriving at a decision, the State Hearings 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 (AFDC-Related) is based on current policy and regulations. Some of these regulations state as follows: To be eligible for Medicaid the amount of countable assets cannot exceed \$3,000. (WV Income Maintenance Manual Section 11.3) When the client disagrees with the listed value, the client is responsible for obtaining one estimate on form DFA-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining the estimate. (WV Income Maintenance Manual Section 11.4.2) If all joint owners are not in the AG – the assets considered available to the AG from other joint ownership is the countable asset value assigned to the AG member as a result of the joint ownership plus any other assets owned solely by AG members. (WV Income Maintenance Manual Section 11.5.B.3.a.(2))

The information, which was submitted at your hearing, revealed that you own, jointly with your mother, a 2006 Hyundai Elantra with a value of \$7815.00, of which you owe no outstanding debt. The Department counted the total value of the car as an asset in your case. After you expressed disagreement with the value used, the Department failed to discuss the policy which allows you to obtain another estimate of value at the Department's expense.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to deny your application for Medicaid.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Heather Walker [REDACTED] DHHR

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

_____,
Claimant,

v.

Action Number: 08-BOR- 937

**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 24, 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 24, 2008 on a timely appeal, filed January 28, 2008.

II. PROGRAM PURPOSE:

The Program entitled Medicaid is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Medicaid categorically related to Aid to Families with Dependent Children (AFDC) Program is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

_____, Claimant
Heather Walker, Department Representative

Presiding at the Hearing was Cheryl Henson, 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 their action to deny the Claimant's Medicaid application.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 11.1, 11.3 and 11.4, 11.5.B.3.a.(2)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of Individual Demographics Screen from Rapids
- D-2 Summary of Events
- D-3 Copies of Case Comments
- D-4 Copy of Screener Application not dated
- D-5 Notification letter dated January 29, 2008
- D-6 Rapids Asset Screen and Kelly Blue Book values
- D-7 West Virginia Income Maintenance Manual Policy §11.3 and 11.4

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant submitted an application for AFDC-Related Medicaid on January 28, 2008. (D-4) The Claimant reported that she owned a 2006 Hyundai Elantra jointly with her mother. The Department determined this was the only asset countable in determining eligibility for AFDC-Related Medicaid for the Claimant.
- 2) The Department used the Kelly Blue Book value of \$7815.00, and counted the entire value in determining asset eligibility. After deducting \$1500.00 value, they arrived at a figure of \$6315.00 countable as an asset. Although the Claimant disagreed with this value at the time of application, the Department did not discuss the possibility of obtaining another estimate of value.
- 3) The Department sent the Claimant a notification letter (D-5) dated January 29, 2008 which included the following pertinent information:

Action: Your 01/28/08 application for AFDC Related Medicaid has been denied.

Reason: The amount of assets is more than is allowed for this benefit. The following individuals are ineligible.

Your Countable assets..... 6315.00
MA Asset limit.....3000.00

- 4) The Department stated they did not discuss the possibility of obtaining another vehicle estimate with the Claimant because the vehicle was newer, a 2006 model, and the Claimant indicated at the time of application that it was in “good” condition.
- 5) The Department offered no evidence to dispute the claim that the Claimant owned the car jointly with her mother, and offered no explanation as to why the full value of the vehicle was counted in determining “countable assets” for this Claimant.
- 6) The Claimant contends the Department failed to communicate with her during the application process, and she should have been informed of the possibility of obtaining another vehicle estimate. She stated she would have had her car appraised if she had known.
- 7) West Virginia Income Maintenance Manual § 11.3 – Maximum Allowable Assets:

To be eligible for programs administered by the Office of Family Support (OFS), the total amount of countable assets cannot exceed the amounts, which are listed in the following chart:

AFDC-Related Medicaid Size of AG – 2 Asset level \$3000.00

- 8) West Virginia Income Maintenance Manual § 11.4 – VEHICLES

2. AFDC Medicaid and AFDC-Related Medicaid

STEP 1: When the AG Has Only One Vehicle

One vehicle is excluded, provided the equity does not exceed \$1,500. When the equity is greater than \$1,500, the excess amount is an asset. If the client disagrees with the value or the value cannot be obtained, procedures in Step 2 are followed to determine equity.

STEP 2: Determining Equity in All Vehicles

The listed trade-in value of the vehicle is used, unless one of the following conditions exists:

- The Client disagrees with the listed value.

The client is responsible for obtaining one estimate on form DFA-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this

estimate, using for DF-67. If the Department has no objection to the client's estimate, it is accepted as the value used in determining equity. The listed value is not used once an estimate has been obtained.

- 9) WV Income Maintenance Manual Section 11.5.B.3.a.(2) states in pertinent part:

3. Jointly Owned Assets

a. AFDC Medicaid and AFDC Related Medicaid

(2) All Joint Owners Not in the AG

If all joint owners are not in the AG, the following general rules apply:

The assets considered available to the AG from other joint ownership is the countable asset value assigned to the AG member as a result of the joint ownership plus any other assets owned solely by AG members.

EXAMPLE:

A woman and her 3 children apply for WV Works. The woman owns her homestead property and another piece of land valued at \$600. In addition, she and her sister jointly own property valued at \$750. The deed shows the owners as _____ and _____. They are trying to sell the property. The value assigned to the applicant is \$975, i.e., the total value of the land she owns alone plus $\frac{1}{2}$ of the value of the jointly owned property.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that only one half ($\frac{1}{2}$) the value of jointly owned assets involving two individuals – one of whom is not an AG member - is considered a countable asset. Also, in determining vehicle value, when the Claimant disagreed with the value the Department determined, the Department was obligated to discuss the possibility of obtaining another estimate of value at their expense.
- 2) The Department failed to follow policy in the determination of value of the vehicle. They failed to consider the fact that the vehicle was jointly owned with a non-assistance group member, which would have affected the value considered. They failed again in pursuing another vehicle estimate when the Claimant disagreed with the original valuation.

IX. DECISION:

I rule to **reverse** the Department in its action to deny the claimant's Medicaid application due to excessive countable assets.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of May, 2008.

**Cheryl Henson
State Hearing Officer**