



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

September 28, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 27, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your AFDC-Related Medicaid benefits based on 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 AFDC-Related Medicaid is based on current policy and regulations. Some of these regulations state that the maximum allowable asset limit for an AFDC-Related Medicaid assistance group of two (2) is \$3000.

Information submitted at your hearing reveals that your assets exceed the maximum allowable asset limit for participation in the AFDC-Related Medicaid Program.

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to terminate you AFDC-Related Medicaid benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Brenda McGill, FSS, DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 09-BOR-1474**

**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 September 28, 2009 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 August 27, 2009 on a timely appeal filed July 1, 2009.

**II. PROGRAM PURPOSE:**

The Medicaid categorically related to Aid to Families with Dependent Children 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

-----, Claimant's witness

-----, Claimant's witness

Brenda McGill, Family Support Specialist (FSS), DHHR

Renita Gouge, FSS Supervisor, 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 or not the Department was correct in its proposal to terminate the Claimant's AFDC-Related Medicaid benefits based on excessive assets.

#### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual, Chapters 11.2, 11.3 & 11.4

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 Notice of Decision dated June 24, 2009
- D-2 Vehicle System Master Inquiry, Department of Motor Vehicles (DMV), 7-pages
- D-3 WV Income Maintenance Manual, Chapter 11.2, 11.3 and 11.4
- D-4 NADA Guides Vehicle Pricing & Information from internet site -  
<http://www.nadaguides.com/usedcars.aspx?LI=1-21-1-5013-0-0-0&l=&w=21&f=5...>  
(page 1 of 2)

#### **VII. FINDINGS OF FACT:**

- 1) On or about June 24, 2009, the Claimant was notified via a Notice of Decision (D-1) that her AFDC Medicaid benefits would stop effective June 30, 2009. This letter advises the Claimant that her assets are more than allowed for this benefit.
- 2) The Department submitted Exhibit D-2 to show that the Claimant is listed as the owner of several vehicles in the Department of Motor Vehicles data system. The vehicles listed with an inactive registration (expired tag) are; 1991 Ford Explorer, 1990 Ford F150 pickup, a 1995 Oldsmobile Achieva and a 1992 Geo Metro. Vehicles listed with an active registration include a 1977 Mercury, a 2003 Moped and a 2000 Jaguar S-Type.
- 3) The Claimant purported that she no longer owns several of the listed vehicles and contends that the Jaguar is actually -----'s. She purported that she primarily uses the vehicle to take him to-and-from medical appointments. It should be noted that the Claimant and ----- acknowledged both of their names appear as the owners of the 2000 Jaguar as ----- indicated he wanted the Claimant to have the vehicle in the event of his death.

- 4) The Department noted that because the title reads ----- &/or -----, (The key indicator of “or”) indicates the Claimant can liquidate the asset without permission or consent of -----. Exhibit D-4 indicates the average trade-in for the Jaguar is \$4325. The Claimant’s vehicle assets, according to Exhibit D-1 are \$5249, combined with checking and savings, countable assets were determined to be \$6184.92.
- 5) WV Income Maintenance Manual, Chapter 11.3 indicates that the maximum allowable asset limit for AFDC-Related Medicaid is \$3000.
- 6) WV Income Maintenance Manual, Chapter 11.2.D – “AND/OR – Joint ownership indicated by ‘and/or’ between the names of the owners. The asset is available to each owner in its entirety.”
- 7) WV Income Maintenance Manual, Chapter 11.4.TT states - The owner of a vehicle is generally the individual to whom it is titled. However, when the title of a vehicle is not in the client's name, but the client states he is the owner, the vehicle is counted as the client’s asset. If the title is in the client’s name, and he indicates the vehicle no longer belongs to him, and the name on the title has not been changed, the vehicle is presumed to be his, unless he can prove otherwise. Only those vehicles of members of the AG, individuals who are disqualified or excluded by law and who would otherwise be required to be included, are considered when determining vehicle assets.

The trade-in value is usually used as the CMV [Current Market Value] for AFDC Medicaid, WV WORKS and AFDC-Related Medicaid.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Pursuant to AFDC-Related Medicaid policy, the maximum allowable asset limit for AFDC-Related Medicaid \$3000.
- 2) While the Claimant indicated she no longer owns some of the vehicles listed, the average trade-in value of the Jaguar is \$4325. Because the vehicle is registered by using “and/or,” the asset is available to the Claimant in its entirety. The value of the Claimant’s checking and savings, as well as the value of any other vehicle titled in her name, count toward the asset limit.
- 3) Based on the evidence, the Claimant clearly exceeds the maximum allowable asset limit for participation in the AFDC-Related Medicaid program.

#### **IX. DECISION:**

After reviewing the evidence and the applicable policy and regulations, it is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate your AFDC-Related Medicaid benefits based on excessive assets.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 28<sup>th</sup> Day of September, 2009.**

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**Thomas E. Arnett  
State Hearing Officer**