



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 468
Hamlin, WV 25523

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 19, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 19, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your SSI-Related Medicaid due to excessive income.

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 SSI-Related Medicaid program is based on current policy and regulations. Some of these regulations state that individuals who otherwise meet eligibility requirements but who 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 six month period of consideration (POC) is used to project countable income. If medical bills sufficient to satisfy the established spenddown are not submitted, the application is denied (West Virginia Income Maintenance Manual ' 10.22).

The information which was submitted at your hearing revealed that your countable income exceeds the maximum limits for SSI-Related Medicaid and you do not have enough outstanding medical expenses to meet your spenddown amount of three thousand eighteen dollars (\$3018).

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to terminate your SSI-Related Medicaid due to excessive income.

Sincerely,

Cheryl Henson
State Hearings Officer
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review
Shelia Napier, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-1516

**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 August 19, 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 19, 2009 on a timely appeal, filed July 7, 2009.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision.

II. PROGRAM PURPOSE:

SSI RELATED MEDICAID

The SSI Related Medicaid Program 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

-----, Claimant's daughter-in-law and Representative

Shelia Napier, [REDACTED] DHHR 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's decision to terminate Claimant's SSI-Related Medicaid is correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 10.22 and Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary dated August 19, 2009
- D-2 Notification letter dated July 6, 2009
- D-3 West Virginia Income Maintenance Manual Section 10.22
- D-4 West Virginia Income Maintenance Manual Appendix A

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant had been receiving SSI-Related Medicaid based on disability and zero income since March 2009. In July 2009 the Claimant reported that she had been approved for Social Security Disability benefits in the amount of seven hundred twenty three dollars (\$723.00) per month. The Department determined that this amount was now in excess of the Medically Needy Income Limit (MNIL) of two hundred dollars (\$200.00) for her one person household (D-4), and now requires the Claimant to meet a spenddown.
- 2) The Department sent the Claimant a notification letter (D-2) dated July 6, 2009 which includes the following pertinent information:

This is to inform you that the information listed below is needed to establish your eligibility for SSI Related Medicaid for the Aged, Blind and Disabled. If this information is not made available to this office by 06/06/09 your eligibility for benefits and/or deductions cannot be established or continued.

Household Information Needed: Medical Bills must be provided in the amount of the spenddown.

The amount of your spenddown is \$3018.00. The amount of medical bills your presented is \$0.00. You should have presented additional medical bills in the amount of \$3108.00 in order to meet your spenddown.

Based on the information you provided at the time you made an application for Medicaid, we have determined that you meet the eligibility requirements for SSI Related Medicaid for the Aged, Blind and disabled except that your income is greater than the protected income level. The protected income level is the amount of income you may have and still be eligible for a medical card. When the income of the Medicaid benefit group exceeds the protected income level, the applicant is expected to use this excess income to meet medical expenses. This process is called "spenddown".

- 3) Although the notification letter gives a deadline date which is prior to the date of the notice, the Claimant concedes that she was informed of the process and that she did not have any outstanding medical bills to use toward meeting her spenddown. The application was then denied for failure to meet the spenddown. The Claimant agrees with the income the Department used in the calculations; however, she states that she has medical needs that she cannot meet. She has prescription costs that total approximately seven hundred dollars (\$700.00) monthly and she cannot afford to buy this medication. She adds that physicians will not see her without medical coverage. The Claimant's daughter-in-law added that the Claimant has early stages of dementia or Alzheimer's disease and it is very important that she takes her medication. Otherwise, her mental abilities are extremely impaired.

- 4) West Virginia Income Maintenance Manual § 10.22 D (11) states:

To receive a Medicaid card, the monthly countable income of the Needs Group must not exceed the amount of the Medically Needy Income Level (MNIL). 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 until the POC expires. The spenddown process applies only to AFDC-Related and SSI-Related Medicaid.

- 5) West Virginia Income Maintenance Manual § 10 Appendix A states:

MNIL for one (1) person in the Needs Group - \$200

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's Social Security income exceeds the Medically Needy Income Limit (MNIL) level of \$200. The onset of this income requires the Claimant to meet the spenddown provision as indicated in policy to continue eligibility for Medicaid.

- 2) The Claimant has no outstanding medical bills to use in meeting her spenddown in the amount of three thousand eighteen dollars (\$3108.00).
- 3) Although the Claimant continues to meet the medical criteria for disability, she no longer meets the financial eligibility criteria as set forth in policy to continue receiving SSI-Related Medicaid, and cannot meet her spenddown at this time.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate Claimant's SSI-Related Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of August, 2009

**Cheryl Henson
State Hearing Officer**