



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 11, 2009

c/o -----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 19, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny Qualified Individuals (QI-1) benefits.

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.

Some of the regulations for the QI-1 program state that if the monthly countable income is less than or equal to the QI-1 income level, the client is eligible. For QI-1, the income may be greater than 120% of the Federal Poverty Level (FPL), but must be less than or equal to 135% FPL.

Information submitted at your hearing revealed that the QI-1 income limits were exceeded.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny QI-1 benefits.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lisa Tanner, Economic Service Worker

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

-----,

Claimant,

v.

Action Number: 08-BOR-2301

**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 February 11, 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 November 19, 2008 on a timely appeal, filed October 10, 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.

The Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified 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 QMBV 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. The maximum income level for QI-1 is 135% of the Federal Poverty Level. This program pays for a portion of the Medicare premium.

III. PARTICIPANTS:

-----, Claimant's daughter
Lisa Tanner, Economic Service Worker, DHHR

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to deny Qualified Individuals (QI-1) benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 10.16; Chapter 10.22; Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Qualified Individuals (QI-1) application date stamped August 27, 2008
- D-2 Verification checklist dated September 10, 2008
- D-3 Denial notification dated October 10, 2008
- D-4 Manual denial notification dated November 14, 2008
- D-5 West Virginia Income Maintenance Manual, Chapter 10.16
- D-6 Income verification
- D-7 West Virginia Income Maintenance Manual, Chapter 10.22
- D-8 West Virginia Income Maintenance Manual, Chapter 10.16
- D-9 West Virginia Income Maintenance Manual, Chapter 10, Appendix A

Claimant's Exhibit:

- C-1 Letter dated October 28, 2008

VII. FINDINGS OF FACT:

- 1) The Claimant submitted an application (Exhibit D-1) for Medicaid assistance with Medicare premiums, which was received by the Department on August 28, 2008. The Medicaid programs in this category include: Qualified Medicare Beneficiaries (QMB), Specified Low Income Medicare Beneficiaries (SLIMB), and Qualified Individuals (QI-1). The Department sent, on or about September 10, 2008, a verification checklist (Exhibit D-2) to the Claimant, requesting verification of income and assets. Testimony from the Department confirmed that three denial notices were sent – one each for QMB, SLIMB, and QI-1 – and that the income limits for the QI-1 program were the highest of the three categories, so it was the denial notice submitted (Exhibit D-3). This notice to the Claimant stated, in pertinent part:

1. ACTION: Your 08/27/08 application for Qualified Individual I has been DENIED.

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

The notice continued to itemize and total assets and income, and to compare the totals with their corresponding limits. The countable net income for the household is listed as \$1762.93, and the Medically Needy Income Limit (MNIL) for the program is listed as \$1575.00. However, the notice then made the statement:

Your Income over Medically needy Limit = 0.00

- 2) Testimony from the Department confirmed that the final statement in Exhibit D-3 was an error due to a problem with the computer-generated notices. A corrected, manual letter was issued on November 14, 2008 (Exhibit D-4). This notice corrected the final statement of Exhibit D-3 as follows:

Your Income over Medically needy Limit = 187.93

- 3) Testimony confirmed that the Claimant provided income verification from 2006, and that the Department used the income verification that was available to them from data exchanges with the Social Security Administration (Exhibit D-6). There was no dispute of the Social Security income amounts on the Claimant's behalf, and the pension amount was explicitly confirmed by the Claimant's daughter. The Department provided the total of these amounts as \$1782.93.
- 4) The West Virginia Income Maintenance Manual, Chapter 10.16.B (Exhibits D-5 and D-8), states, in pertinent part (emphasis added):

B. DETERMINING ELIGIBILITY

Countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. Deemed income is addressed in item C below.

Countable income is determined as follows:

Step 1: **Determine the total non-excluded gross unearned income and subtract the appropriate disregards.** See Section 10.22,B.

Step 2: Determine the total non-excluded gross earned income. See Section 10.22,B.

Step 3: Add unearned income from Step 1 above.

Step 4: Subtract the amount of income diverted to a PASS account and the Death Benefit deduction.

The result is the total monthly countable income.

Step 5: Compare the amount in Step 4 to the QMB, SLIMB or QI-1 income levels for the appropriate number of persons. See item C,4 below. If the amount is less than or equal to the QMB, SLIMB or QI-1 income levels, the client(s) is eligible.

Eligibility for these coverage groups is determined as follows.

QMB - Income is less than or equal to 100% FPL.

SLIMB - Income is greater than 100% FPL, but less than or equal to 120% FPL.

QI-1 - Income is greater than 120% FPL, but less than or equal to 135% FPL.

SEE APPENDIX A.

- 5) The West Virginia Income Maintenance Manual, Chapter 10.22.B.2 (Exhibit D-7), states, in pertinent part:

2. Unearned Income

- SSI \$20 Disregard: A \$20 Disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

- 6) The West Virginia Income Maintenance Manual, Chapter 10, Appendix A (Exhibit D-9), listed the income limit for QI-1, for a two-person household, as \$1575. Testimony from the Department explained that the Claimant's gross income (\$1782.93) minus the \$20 disregard resulted in the Claimant's monthly countable income (\$1762.93), and because the monthly countable income exceeded the income limit for the QI-1 program (\$1575), the Claimant was denied.
- 7) The Claimant's daughter testified that the denial letter was incorrect, and expressed problems dealing with the Department outside the scope of this hearing.

VIII. CONCLUSIONS OF LAW:

- 1) The Department clearly showed that the Claimant was over income for the QI-1 program.
- 2) The Department issued a denial letter with incorrect information. The letter still explicitly stated that the Claimant was denied QI-1, and demonstrated monthly countable income in excess of the limit for the program. A corrected letter was sent to the Claimant to clarify the only incorrect portion of the previous notice.

3) The Department was correct to deny QI-1 benefits to the Claimant.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of Qualified Individual (QI-1) Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of February, 2009.

**Todd Thornton
State Hearing Officer**