



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General**

**Joe Manchin III  
Governor**

**Board of Review  
P.O. Box 1736  
Romney, WV 26757**

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

August 23, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 18, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your AFDC (Aid to families with dependent children) Medicaid assistance.

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 AFDC Medicaid is based on current policy and regulations. These regulations provide that in order to be determined financially eligible for the program an individual's countable income may not exceed 100% of the Federal Poverty Level. To receive a Medicaid card, the Income Group's monthly countable income must not exceed the amount of the Medically Needy Income Limit or MNIL. If the income exceeds the MNIL, the AG has an opportunity to spend the income down to the MNIL by incurring medical expenses. These expenses are subtracted from the income for the 6-month period of consideration or POC, until the income is at or below the MNIL for the Needs Group size (West Virginia Income Maintenance Manual Chapter 10.21).

The information which was submitted at your hearing revealed that you are not employed and do not meet the requirements for Transitional Medicaid coverage; therefore the Department was correct to terminate such coverage approved to the household in error. Additionally the total monthly countable income of your household exceeds the income limits for the AFDC-Related Medicaid program; therefore you must meet a spenddown provision to remain eligible for medical assistance.

It is the decision of the State Hearing Officer to Uphold the action of the Department to terminate your Medicaid assistance.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Daniel Pyles, Economic Service Supervisor

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1658**

**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 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 18, 2010 on a timely appeal, filed August 5, 2009.

It should be noted that the claimant's benefits under the AFDC Medicaid program continue at the previous level of determination pending a decision from the State Hearing Officer.

**II. PROGRAM PURPOSE:**

The Aid to Families with Dependent Children (AFDC, AFDCU for unemployed parents) Medicaid Program is designed to provide medical assistance to eligible families with children 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 mother and witness

Daniel Pyles, Economic Service Supervisor

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct to terminate the Claimant's Medicaid based on financial eligibility.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 10.22, 16.3 and 16.5

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

**Department's Exhibits:**

- D-1a Notification letter dated January 23, 2009
- D-1b Notification letter dated July 17, 2009
- D-1c Notification letter dated August 5, 2009
- D-1d Notification letter dated October 20, 2009
- D-1e Notification letter dated November 12, 2009.
- D-2 West Virginia Income Maintenance Manual Chapter 16.3 and 16.5
- D-3 Computer printout of Medicaid benefit disbursements

**VII. FINDINGS OF FACT:**

- 1) In January 2009, the Claimant applied for and was subsequently approved for benefits under the Aid to Families with Dependent Children, hereinafter AFDC, Medicaid program. The basis of the approval was derived from the Claimant's financial eligibility, along with a deprivation factor of the absence of a parent to the household.
- 2) Mr. Daniel Pyles, Economic Service Supervisor, testified that while processing an information data exchange with the Social Security Administration, the Department became aware of the Claimant's approval of Social Security Disability benefits. Mr. Pyles purported that the Claimant's total monthly household income of \$1575.00 was in excess of the AFDC Medicaid income limit of 100% of the Federal Poverty level or \$1215.00.
- 3) Mr. Pyles explained that upon receipt of the Claimant's Social Security income information, the Economic Service Worker (ESW) commenced to terminate the AFDC Medicaid and to evaluate the Claimant's eligibility for AFDC-Related Medicaid to consider a spenddown provision. However, the ESW failed to remove prior employment earnings for the Claimant from 2006 and incorrectly approved Transitional Medicaid. The Department issued Exhibit D-1a, Approval Notice on January 23, 2009, documenting the change in Medicaid assistance from AFDC Medicaid to Transitional Medicaid. Mr. Pyles purported that Transitional Medicaid coverage is incorporated into two different phases, each requiring employment on behalf of the recipient. Mr. Pyles testified that the Department erred in its approval of the Transitional Medicaid as the Claimant did not have the necessary employment to be considered for the program.

- 4) In July 2009, the Department discovered the agency error involving the approval of Transitional Medicaid and terminated such Medicaid coverage, as the Claimant did not meet the employment requirements of the program. The Claimant was issued Exhibit D-1b, Notification Letter dated July 17, 2009 which documents in pertinent part:

Action: Your Transitional Medicaid benefits will stop. You will not receive this benefit after July 2009.

Reason: Transitional Medicaid Phase II requires employment of one group member.

- 5) The Claimant requested a hearing for the termination of her Medicaid benefits with the Board of Review on August 5, 2009. Based on the Claimant's request, her Transitional Medicaid benefits were continued at the previous level of determination pending a ruling on the matter from the State Hearing Officer. Due to an agency error, the Board of Review did not receive the request until July 28, 2010.
- 6) Mr. Pyles testified that upon the termination of Transitional Medicaid, the Claimant was evaluated for AFDC-Related Medicaid assistance. This evaluation was based on a deprivation factor of the absence of a parent to the household. Due to the Claimant's excessive income, she was required to meet a spenddown provision of \$4652.50 to establish eligibility for Medicaid assistance. Mr. Pyles explained the spenddown process and stated that based on the Claimant's current financial circumstances; she would be required to incur medical expenses totaling the spenddown amount to maintain eligibility for Medicaid assistance. Additionally, the Department issued Exhibit D-1d, Notification Letter on October 20, 2009. This notice documents in pertinent part:

Action: Your application for Medicaid dated 8/17/09 has been denied.

Reason: You failed to provide information. The information you did not provide is listed below. The amount of your spenddown is \$4652.40.

- 7) The Claimant stated that due to her poor health, she is in need of Medicaid assistance. The Claimant indicated that she suffers from a degenerative medical condition involving her spine, neck, and wrists. The Claimant testified that the situation, involving the closure of her medical assistance, caused great trauma to her well being. The Claimant stated that during the timeframe in which she was in an appeal status she suffered from continual panic and anxiety, as she feared she would not have medical assistance on a month to month basis. Additionally, the Claimant's mother testified to the panic and worry that her daughter suffered from during the period of uncertainty involving her Medicaid assistance. During the hearing process, the Claimant's testimony focused on the medical aspects of her condition and she, nor her witness, offered any relevant testimony as it pertained to her financial eligibility for Medicaid assistance.
- 8) West Virginia Income Maintenance Manual Chapter 16.3 states in pertinent part:

When the client expresses an interest in applying for Medicaid, the Worker MUST EXPLORE ELIGIBILITY FOR ALL MEDICAID COVERAGE GROUPS. This does not mean that applications for all coverage groups must be taken and processed. It means that Medicaid eligibility cannot be denied until

the client has been considered for each coverage group and that, if the client is eligible under more than one coverage group, he is approved for the one that will provide him with the most benefits in the fastest time frame.

- 9) West Virginia Income Maintenance Manual Chapter 16.5 states in pertinent part:

Transitional Medicaid-This coverage group consists of families which lose eligibility for AFDC Medicaid because of earned income, the loss of earned income disregards or the number of hours worked. TM provides continuing medical coverage after AFDC Medicaid eligibility ends and occurs in 2 phases.

- 10) West Virginia Income Maintenance Manual Chapter 10.22 states in pertinent part:

Countable income is determined by applying the income disregards and deductions to the non-excluded gross income of the Income Group. The remaining income is then compared to the MNIL for the appropriate Needs Group size. An AFDC-Related Medicaid application is not denied solely on the basis of excess income. Instead, the spenddown provision is applied.

...

To receive a Medicaid card, the Income Group's monthly countable income must not exceed the amount of the MNIL. If the income exceeds the MNIL, the AG has an opportunity to spend the income down to the MNIL by incurring medical expenses. These expenses are subtracted from the income for the 6-month POC, until the income is at or below the MNIL for the Needs Group size. The spenddown process applies only to AFDC-Related and SSI-Related Medicaid.

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

- 1) Policy which governs the AFDC Medicaid program requires an individual, whose monthly countable income exceeds the medically needy income limit (MNIL), to meet a spenddown provision. This provision allows the assistance group to spend the countable income down to the MNIL by incurring medical expenses, in order to become eligible for assistance for a six month period of consideration.
- 2) The Department incorrectly established Transitional Medicaid assistance as the Claimant did not meet the eligibility requirements for the program as it relates to employment. As the Claimant was unemployed, the Department was correct in its decision to terminate the Claimant's Transitional Medicaid assistance. Based on the termination of Transitional Medicaid assistance, the unearned income of the assistance group was in excess of the MNIL and required the assistance group to meet a spenddown provision of \$4652.40. Since there is no dispute to the calculations or determination of spenddown amount, the Department was correct in its decision to establish a spenddown provision.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the action of the Department to terminate the Claimant's Medicaid assistance.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of August 2010.**

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**Eric L. Phillips**  
**State Hearing Officer**