



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Joe Manchin III  
Governor

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

January 22, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 21, 2009. Your hearing request was based on the Department of Health and Human Resources' action to terminate your SSI Related Medicaid eligibility effective November 30, 2009.

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 the SSI-Related Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: the monthly countable income of the Needs Group must not exceed the amount of the MNIL (Medically Needy Income Limit). 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. (WV Income Maintenance Manual Section 10.22.C.11) Spenddown AG's are not redetermined and are closed at the end of the 6<sup>th</sup> month of the POC. The client must reapply for a new POC. (WV Income Maintenance Manual Section 1.22.N.2)

The information submitted at the hearing reveals that your POC ended November 30, 2009. Because spenddown AG's are not redetermined and are closed at the end of the 6<sup>th</sup> month POC, the Department correctly terminated your SSI Related Medicaid effective November 30, 2009.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your SSI-Related Medicaid benefits.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Tera Pendleton, [REDACTED] DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 09-BOR-2358**

**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 January 21, 2009 on a timely appeal filed November 18, 2009.

It should be noted here that the Claimant requested that her Medicaid benefits be continued pending the hearing decision; however, the Department failed to reinstate those benefits timely. The Claimant's medical eligibility was later back dated to cover the period prior to the hearing.

**II. PROGRAM PURPOSE:**

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, representing herself

-----, Claimant's witness

Tera Pendleton, Income Maintenance Worker, representing Department

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Agency was correct in terminating the Claimant's Medicaid benefits due to the end of her POC.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 1.22.N

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

**Department's Exhibits:**

- D-1 Notification letter dated August 13, 2009
- D-2 West Virginia Income Maintenance Manual Section 16.9

**Claimant's Exhibits:**

- C-1 Notification letter dated November 18, 2009
- C-2 Hearing request dated November 23, 2009
- C-3 Copy of Medicaid card for December 1, 2009 through January 31, 2009

**VII. FINDINGS OF FACT:**

- 1) On August 13, 2009 the Department sent the Claimant a notification letter (D-1) informing her that her SSI Related Medicaid application dated June 30, 2009 was approved. She was also notified that she would be eligible for this coverage from June 1, 2009 through November 30, 2009.
- 2) On November 18, 2009 the Department sent the Claimant another notification letter (C-1) which included the following pertinent information:

**MEDICAID**

**ACTION:** Your Medicaid will end on 11/30/09.

**REASON:** The time limit for this coverage has expired.

If you wish to be re-evaluated for Medicaid, you must reapply for coverage.

- 3) The Claimant reapplied for Medicaid on December 14, 2009 and the Department sent the Claimant a Medicaid card (C-3) on or about January 14, 2010 which covered the timeframe of December 1, 2009 through January 31, 2010.
- 4) The Department contends that because the Claimant failed to reapply for Medicaid during the last month of her POC, that being November 2009, policy required it to terminate her Medicaid eligibility November 30, 2009.
- 5) The Claimant contends that the Department should not have terminated her Medicaid eligibility effective November 30, 2009. She added that she did not obtain the coverage until August 2009 and therefore she believes the POC should be extended. She also contends that she should not be subjected to a spenddown. She stated during the hearing that her income exceeds seven hundred dollars (\$700.00) monthly.
- 6) West Virginia Income Maintenance Manual Section 10.22 D, 11 (D-E) states:

To receive a medical card, the monthly countable income of the needs group must not exceed the amount of the MNIL (Medically Needy Income Level). 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. Eligibility begins on the date that medical bills bring the spenddown amount to \$0. Medical expenses, which are not subject to payment by a third party and for which the client will not be reimbursed, are used to reduce or eliminate the spenddown.

The MNIL for a one person household is two hundred dollars (\$200.00) for one (1) month and twelve hundred dollars (\$1200.00) for six (6) months. The Claimant's reported income exceeds seven hundred dollars (\$700.00) monthly.

- 9) West Virginia Income Maintenance Manual Section 1.22.R.2 (c) states:

Spenddown

c. Scheduling the Redetermination

These AG's are not scheduled for a redetermination. The client must apply for a new POC.

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

- 1) Policy provides that if the household's countable income exceeds the MNIL, which is two hundred dollars (\$200.00) monthly in this instance. A spenddown must be met prior to SSI-Related Medicaid eligibility being approved. Medicaid coverage may only be

established from the date the medical expense which met the spenddown was incurred to the end of the six-month period of consideration.

- 2) Policy also provides that spenddown medical cases are not redetermined, meaning the Department is not required to schedule a redetermination appointment at the end of the POC. Policy provides that the individual must reapply in order to continue coverage past the POC deadline.
- 3) Evidence reveals that the Claimant is subject to a spenddown because her monthly income exceeds the MNIL. Her POC was from June 1, 2009 through November 30, 2009. Testimony provided during the hearing reveals that the Claimant met her spenddown on August 12, 2009. The Claimant correctly received medical coverage from that date until November 30, 2009. Policy does not allow for the POC to be extended. She did not reapply for the coverage prior to the end of the POC.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate the Claimant's SSI Related Medicaid eligibility effective November 30, 2009

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 22<sup>nd</sup> Day of January, 2009.**

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**Cheryl Henson  
State Hearing Officer**