



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

February 25, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 23, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for AFDC Related Medicaid.

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 AFDC Related Medicaid Program is based on current policy and regulations. Some of these regulations state as follows: If the net countable monthly income is equal to or less than the appropriate Medically Needy Income Level (MNIL), the AG is eligible without a spenddown. If it is in excess of the appropriate MNIL, the AG must meet a spenddown. Certain medical expenses are allowed to be considered for meeting the spenddown which include old unpaid bills and current payments on or the unpaid balance of an old bill incurred outside the period of consideration. (WV Income Maintenance Manual Section 10.21.D.11(c))

The information which was submitted at your hearing revealed your income is excessive for the AFDC Related Medicaid Program and you are required to meet a spenddown. You do not have sufficient bills to meet a spenddown.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to deny your October 27, 2009 application for AFDC Related Medicaid.

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: 10-BOR-614

**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 ----- . The 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 February 23, 2010 on a timely appeal, filed January 7, 2010.

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
Tera Pendleton, [REDACTED] DHHR

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 Department is correct in its decision to deny the Claimant's AFDC Related Medicaid application due to failure to meet a spenddown.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 10.21.D.11, 10.21.C and Appendix A of Chapter 10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Verification Checklist letter dated September 18, 2009 with attached medical bills
- D-2 WV Income Maintenance Manual Section 10.21
- D-3 Notification letter dated December 14, 2009
- D-4 Copy of appointment notice for hearing dated January 13, 2010, case comments from RAPIDS computer system, computer screens from RAPIDS, handwritten notes from case worker regarding medical bills used, and copies of various medical bills

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant applied for Aid to Families with Dependent Children (AFDC) Related Medicaid on October 27, 2009. Because her Assistance Group (AG) had excessive earned and unearned income, her AG was required to meet a spenddown, in the amount of Three thousand two hundred seventy one dollars and thirty two cents (\$3271.32). This means that the Claimant must provide evidence to show she has incurred certain countable medical expenses that total the amount of her spenddown in order to be eligible for AFDC Related Medicaid. This evidence must be provided within thirty (30) days of the application date of October 27, 2009.
- 2) The parties stipulate that the income the Department used for the AFDC Related Medicaid application was correct and the spenddown was computed correctly in the amount of three thousand two hundred seventy one dollars and thirty two cents (\$3271.32), however, the Claimant believes the Department did not use all the bills she provided as evidence (D-1) in order to meet her spenddown, and contends that had all those bills been entered, she would have met her spenddown amount and be eligible for AFDC Related Medicaid.
- 3) The Department contends that some of those bills were not used to meet her spenddown because they were duplicates, were in the "collections process" with a debt collector, or had been used previously to meet another spenddown. However, the Department

provided no evidence to support that the bills were previously used to meet a prior spenddown. The Department contends that even if all the submitted bills were used toward meeting the spenddown they would not have been sufficient.

- 4) The Claimant stipulates that the bills provided as evidence by the Department (D-1) includes all the bills she submitted; however, she claims that they total more than the amount of her spenddown. The Claimant contends she has never met a spenddown in the past and therefore none of the bills submitted should have been excluded for this reason.
- 5) The Department submitted additional evidence (D-4) in the form of hand written notes from the case worker who entered the bills in for the Claimant's spenddown. The notes list the dates of service, the provider, the amount of the expense, and whether the bills were used for spenddown or not. The notes show the following was entered toward the Claimant's spenddown:

3/21/08	██████████	\$688.62
7/01/09	██████████	\$660.85
7/01/09	██████████	\$50.00
9/15/09	██████████	\$271.20
9/02/09	██████████	\$105.00
6/18/09	██████████	\$10.00
8/24/09	██████████	\$10.00
6/04/09	██████████	\$50.00
4/18/09	██████████	\$20.00
9/23/09	██████████	\$154.00
11/07/09	██████████	\$179.30

Total = \$2198.97

The notes also show that a total of three thousand one hundred seventy eight dollars and seventy five cents (\$3178.75) was disallowed due to being duplicate bills or for not being itemized.

- 6) After careful review of the medical bills submitted (D-4) and considered by the Department for the Claimant's spenddown, additional bills are found to be eligible for use in meeting the Claimant's spenddown. The following medical expenses not considered by the Department are eligible:

7-1-09	██████████	\$539.00
10-05-09	██████████	\$90.00
11-6-07	██████████	\$50.00
9-15-09	██████████	\$259.20
9-8-09	██████████	\$60.40

Total = \$998.60

The July 1, 2009 bill to ██████████ Hospital in the amount of five hundred thirty nine dollars (\$539.00) is not a duplicate as claimed by the Department. The evidence (D-4) shows this bill is for physician services which shows a different account number than the other bill for fifty dollars (\$50.00) which is for the emergency room and other

charges on the same date. The October 5, 2009 bill to [REDACTED] in the amount of ninety dollars (\$90.00) was disallowed by the Department because it was not itemized. Policy does not require the bill to be itemized. The November 6, 2007 bill owed to [REDACTED] was not allowed by the Department but is eligible for use to meet the spenddown. The September 15, 2009 bill for two hundred fifty nine dollars and twenty cents (\$259.20) was not allowed by the Department. The Claimant made a payment of two hundred fifty nine dollars and twenty cents (\$259.20) on September 15, 2009 in addition to the amount allowed by the Department. The September 8, 2009 amount owed to [REDACTED] in the amount of sixty dollars and forty cents (\$60.40) is also allowed.

- 7) The additionally awarded amount of nine hundred ninety eight dollars and sixty cents (\$998.60), when added to the former amount already determined by the Department of two thousand one hundred ninety eight dollars and ninety seven cents (\$2198.97), totals three thousand one hundred ninety seven dollars and fifty seven cents (\$3197.57).
- 8) The Claimant's spenddown amount is three thousand two hundred seventy one dollars and thirty two cents (\$3271.32). The Claimant's total countable bills owed in the amount of three thousand one hundred ninety seven dollars and fifty seven cents (\$3197.57) are not enough to satisfy the spenddown; therefore, the Claimant is not eligible for spenddown AFDC Related Medicaid.
- 9) WV Income Maintenance Manual Section 10.21.D,11 states in pertinent part:

10.21 AFDC RELATED MEDICAID

D. SPECIAL SITUATIONS

11. Spenddown

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.

a. Procedures

Once the client presents sufficient medical expenses to meet his spenddown obligation and all other Medicaid eligibility requirements are met, appropriate RAPIDS procedures are followed to approve the AG and enter the spenddown.

When the bills or verification are received, the Worker reviews them to determine:

* The expenses were incurred, they are not payable by a third party, and the client will not be reimbursed by a third party.

* The individual(s) who received the medical service is one of the people described in item b. below.

If the client does not submit sufficient medical bills by the application processing deadline, the application is denied.

b. Whose Medical Expenses Are Used

The medical bills of the following persons who live with the AG member(s) are used to meet the spenddown. There is no limit on the amount of one individual's bills which can be used to meet another individual's spenddown.

NOTE: The past medical bills of any of the individuals listed below which were incurred while the individual lived with an AG member(s) may be used for spenddown, even if the individual no longer lives with the AG member, is deceased or is divorced from the AG member. The AG member must be responsible for the bill at the time it was incurred and remain responsible for payment.

Use the bills of:

The Adult(s) who is the parent(s) or other caretaker relative

The spouse of the parent or other caretaker relative

The dependent children of the parent or other caretaker relative

The blood-related siblings of the children of the parent, of the children of the other caretaker relative, of the children of the spouse of the parent and of the children of the spouse of the other caretaker relative

c. Allowable Spenddown Expenses

The following 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.

* A current payment on or the unpaid balance of an old bill, incurred outside the current POC, is used as long as that portion of the bill was not used in a previous POC during which the client became eligible. No payment or part of a bill which is used to make a client eligible may be used again. Old unpaid bills, which are being collected by an agency other than the medical provider, may be used when the expense is still owed to the provider. If the expense has been written off by the provider, it is no longer considered the client's obligation, and is, therefore, not an allowable spenddown expense.

Medical bills that were previously submitted, but were not sufficient to meet the spenddown, are used again in a new POC. However, when any old or new bill is used and the spenddown is met, those same bills

must not be used again in a new POC. When only a portion of the old bill, incurred outside the current POC, is used to meet spenddown, any remaining portion of the bill for which the client is still liable may be used to meet spenddown in a new POC.

In addition, when the client submits an old bill and then withdraws his application, the old bill may be used again if he reapplies.

Health insurance premiums, including Medicare or the enrollment fee for a Medicare-approved drug discount card

Medicare co-insurance, deductibles and enrollment fees

- 10) Appendix A, Chapter 10 of the West Virginia Income Maintenance Manual reads:

The MNIL for a one person assistance group is \$200.00, a two person assistance group is \$275.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's spenddown amount was three thousand two hundred seventy one dollars and thirty two cents (\$3271.32).
- 2) Policy provides that medical bills of spouses and dependent children may be used in order to meet the spenddown. Allowable medical expenses are those which are not subject to payment by a third-party, and for which the client will not be reimbursed. These include a current payment on or the unpaid balance of an old bill incurred outside the current Period of Consideration (POC), old unpaid bills which are being collected by an agency other than the medical provider when the expense is still owed to the provider, and previously submitted bills that were not used to meet a spenddown.
- 3) The Claimant's submitted eligible expenses totaling three thousand one hundred ninety seven dollars and fifty seven cents (\$3197.57), which falls short of meeting her spenddown amount by seventy three dollars and seventy five cents (\$73.75).
- 4) The Department is correct in its decision to deny the Claimant's October 27, 2009 application for AFDC Related Medicaid.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is **upheld** in the decision to deny the Claimant's October 27, 2009 application for AFDC Related Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of February, 2010

**Cheryl Henson
State Hearing Officer**