



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV
25313

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

March 28, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1194

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Tera Pendleton, ESW

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1194

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on March 23, 2017, on an appeal filed February 2, 2017.

The matter before the Hearing Officer arises from the January 30, 2017 decision by the Respondent to deny Medicaid Spenddown coverage for the Appellant's spouse.

At the hearing, the Respondent appeared by Tera Pendleton. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision, dated February 3, 2017
- D-2 Case Comments computer screen prints, dated November 2, 2016 through February 6, 2017
- D-3 Track Spenddown computer screen prints, dated December 2016
- D-4 Medical bills for ██████████
- D-5 Notice of Decision, dated February 6, 2017

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant applied for spenddown Medicaid coverage for her husband, [REDACTED], with a period of consideration (POC) from December 2016 through May 2017.
- 2) On February 6, 2017, the Appellant was notified that Mr. [REDACTED] was not eligible for the spenddown, because he failed to provide adequate bills to meet his spenddown within 30 days from the application date. (D-5)
- 3) The notice of decision indicated Mr. [REDACTED] spenddown amount was \$14,337.60, and he presented \$8,686.61 in medical bills. (D-5)
- 4) The Appellant contended that the Department verbally notified them that the spenddown amount was \$9,087.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §10.22 explains that the worker must determine the amount of the client's spenddown at the time of application based on information provided by the client. The spenddown amount may have to be revised if the verified income amount differs from the client's statement. The worker must also explain the spenddown process to the client. An DFA-6A is attached to the verification checklist (DFA-6), which notifies the client that an eligibility decision cannot be made until they meet the spenddown by providing proof of medical expenses. The verification checklist must also contain any other information the client must supply in order to determine eligibility.

The client is requested to provide proof of his medical expenses, date incurred, type of expense and amount, and to submit them to the worker by the application processing deadline.

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

- 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 who received the medical services was a spouse or child under age 18 living with the client.
- The expenses are for medical services and are appropriate to use to meet a spenddown.

The assistance group (AG) member must be responsible for the bill at the time it was incurred and remain responsible for payment.

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

WV IMM §1.22 indicates additional information is due 30 days from the date of application.

DISCUSSION

The Appellant was notified that her husband, [REDACTED], was not eligible for spenddown Medicaid coverage because he failed to meet his spenddown. The Appellant was notified that \$8,686.61 in medical bills were provided, but the required amount of medical bills was \$14,337.60.

Policy explains that the client's spenddown amount is determined by the worker based on income and information provided by the client. The worker must notify the client of their spenddown amount and explain the spenddown process. The client must provide proof of medical expenses by the application processing deadline.

The Appellant stated she did not agree with the spenddown amount of \$14,337.60. She testified that she was verbally informed by the Department that the spenddown amount was \$9,087, not \$14,337.60. She stated she was unaware of the spenddown amount increasing from \$9,087 to \$14,337.60 until she received the denial notice from the Department. She stated that she submitted a sufficient amount of medical bills to meet the spenddown. She added that she had additional bills she could submit.

The Department's representative, Tera Pendleton, testified that there were several issues with the Appellant's case. She stated Mr. [REDACTED] initially had a separate case in error. Ms. Pendleton stated Mr. [REDACTED] spenddown amount increased from \$9,087 to \$14,337.60, because additional income for Mr. [REDACTED] was discovered by the Department.

The Department and Appellant agreed there was a change in the household's income during the spenddown application process, but the type and amount was not stated. Because the verification of household income was not provided, the correct spenddown amount cannot be determined. The client notice and verification checklist that policy requires the worker to give to the client was not entered into evidence, so it also cannot be determined if the Appellant was aware of the increase in the spenddown amount and what type of medical bills were acceptable.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, the worker must determine the amount of the client's spenddown at the time of application based on information provided by the client.

- 2) Because there was insufficient information regarding the Appellant's household income, the correct spenddown amount cannot be determined.

DECISION

It is the decision of the State Hearing Officer to **remand** the matter to the Department to recalculate Mr. [REDACTED] spenddown amount and to provide the proper notification and checklist to specify the type of acceptable medical bills and submission deadline. Following the re-evaluation, the Department shall notify the Appellant of its decision in writing, which shall include the right to a Fair Hearing.

ENTERED this 28th Day of March 2017.

**Natasha Jemerison
State Hearing Officer**