



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch  
Cabinet Secretary**

**BOARD OF REVIEW  
Raleigh County DHHR  
407 Neville Street  
Beckley, WV 25801**

**Jolynn Marra  
Interim Inspector General**

August 18, 2021



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 21-BOR-1802

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,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Leslie Gilbert, [REDACTED] County DHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 21-BOR-1802**

**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 August 17, 2021, on an appeal filed July 19, 2021.

The matter before the Hearing Officer arises from the June 16, 2021, decision by the Respondent to deny the Appellant's application for SSI-Related (spenddown) Medicaid due to excessive assets.

At the hearing, the Respondent appeared by Leslie Gilbert, Economic Service Worker. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Medicaid Application dated June 14, 2021
- D-3 Supplement to Application for Healthcare Coverage dated June 14, 2021
- D-4 West Virginia Income Maintenance Manual §23.11.3
- D-5 West Virginia Income Maintenance Manual §4.6.1.E.2
- D-6 West Virginia Income Maintenance Manual §4.14.4.J
- D-7 Paystubs dated April 30, May 14, May 26, and June 9, 2021
- D-8 Hospital Bill for June 2021
- D-9 Notice of Denial dated June 16, 2021
- D-10 Hearing Request received June 19, 2021
- D-11 Board of Review Scheduling Order

- D-12 West Virginia Income Maintenance Manual §13.4.1  
D-13 Spenddown Information Sheet

**Appellant's Exhibits:**

- A-1 Letter from [REDACTED] dated August 10, 2021  
A-2 Printout from [www.nadaguides.com](http://www.nadaguides.com)  
A-3 Appraisal from Paradise RVs dated August 11, 2021

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 SSI-Related Medicaid with a spenddown on June 14, 2021, and requested backdated coverage for three (3) months (Exhibit D-1).
- 2) The Appellant listed the following assets on the Medicaid application: 2016 Ford Fusion, 1993 Chevrolet 1500, a checking account, and non-homestead property (Exhibit D-2).
- 3) The Respondent found a 1999 Pontoon boat and a 1971 boat trailer titled to the Appellant's husband in the Department of Motor Vehicles (DMV) database.
- 4) The Respondent confirmed with the Appellant on June 15, 2021 that her husband owned the boat and trailer, and that they jointly owned homestead property, the aforementioned vehicles, checking, savings and retirement account.
- 5) The Respondent determined the Appellant's total countable assets determined as \$7,515.
- 6) A Notice of Denial was sent to the Appellant on June 16, 2021, advising that her SSI-Related Medicaid application had been denied due to excessive assets (Exhibit D-9).

**APPLICABLE POLICY**

West Virginia Income Maintenance Manual §5.3.1.B states the asset eligibility determination for SSI-Related Medicaid applications must be made as of the first moment (defined as 12:00 a.m. of the first day) of the month of eligibility. The client is not eligible for any month in which countable assets are in excess of the limit, as of the first moment of the month. Increases in countable assets during one month do not affect eligibility unless retained into the first moment of the following month.

West Virginia Income Maintenance Manual §5.3.3 states Only the client's equity, or portion of actual ownership, is considered. Equity is determined only as follows:

- Determine the Current Market Value (CMV) of the asset.
- Multiply the number of installment payments remaining by the amount of the installment payment.
- Subtract the result of the calculation from the CMV. The remainder is the equity value.

When the client disagrees with the Department of Health and Human Resources-determined (DHHR) value of an asset, it is his responsibility to provide verification of the actual value.

West Virginia Income Maintenance Manual §5.3.4 states a client may not have access to some assets. To be considered an asset, the item must be owned by, or available to, the client and available for disposition. If the client cannot legally dispose of the item, it is not his asset.

Examples of inaccessibility include, but are not limited to, the following:

- Legal proceedings such as probate, liens (other than those required for financing the asset). Items encumbered, or otherwise unavailable, due to litigation are not considered assets until the court proceedings are completed and a court decision is reached. The DHHR is required to follow the dictates of the court order.
- Property sold with a land sale contract. The property does not belong to the seller as long as a legal contract is in effect.
- Homestead/non-homestead property being purchased by a land sale contract. The property does not have equity value for the buyer until the terms of the contract are fulfilled.
- Acting as the authorized agent of an organization, such as the Treasurer of a church or the President of a community group or town council.
- Joint ownership: The meaning of such ownership may be indicated in one of the following ways:
  - AND - Joint ownership indicated by "and" between the names of the owners. Unless there is evidence to the contrary, each owner is assumed to own an equal, fractional share of the jointly owned asset. If the fractional share of the asset is not available to either owner without the consent of the other, and such consent is withheld, the asset is excluded as being inaccessible.
  - OR - Joint ownership indicated by "or" between the names of the owners. The asset is available to each owner in its entirety.
  - AND/OR - Joint ownership indicated by "and/or" between the names of the owners. The asset is available to each owner in its entirety.

West Virginia Income Maintenance Manual §5.4 states the asset limit for SSI-Related Medicaid for a two (2) person needs group is \$3,000. The joint combined assets of spouses living together are counted.

West Virginia Income Maintenance Manual §5.5.48.C states for SSI-Related Medicaid, one vehicle is excluded as an asset for these coverage groups regardless of value, when it is used for transportation of the assistance group (AG) or a member(s) of the AG's household. For SSI-related policy, vehicles used for transportation include, but are not limited to, cars, trucks, motorcycles, boats, snowmobiles, animal-drawn vehicles, and animals. A temporarily disabled vehicle,

normally used for transportation, also meets the criteria. The following do not meet the definition of a vehicle for SSI-related Medicaid groups:

- A vehicle with a junked title
- A vehicle only used for recreational purposes, such as a boat or snowmobile

When there is more than one vehicle, the vehicle exclusion is always applied in a manner that benefits the AG. The car with the highest value may not be the vehicle used for transportation; however, it may be excluded for that reason, if it is to the AG's advantage.

- **Step 1: Exclusion Based on Use:**  
One vehicle is totally excluded, regardless of its value, when it is used for transportation of the AG or a member(s) of the AG's household.
- **Step 2: Determining CMV of all non-excluded vehicles:**  
The equity value of any other vehicle(s) that is not excluded in Step 1 is an asset, unless the vehicle(s) is excluded by other policy, such as property essential to self-support. The listed trade-in value of the vehicle is used to determine equity value, unless one of the following conditions exist:
  - The client disagrees with the listed value.
  - The vehicle value is not listed.

In either of these situations, the client is responsible for obtaining one estimate at his expense on form DFA-V-1, Vehicle Estimate, or providing similar documentation that contains the necessary information to establish CMV. If the DHHR has no objection to the client's estimate, it is accepted as the value used in determining equity. The listed value is not used once an estimate has been obtained.

## **DISCUSSION**

Pursuant to policy, the maximum allowable assets to receive SSI-Related Medicaid is \$3,000 for spouses who reside together. The total countable assets for each spouse are combined to determine asset eligibility.

The Respondent denied the Appellant's application for SSI-Related Medicaid as the combined countable assets exceeded the \$3,000 asset limit. The Appellant testified that the 1999 Pontoon boat was purchased from a family member for \$2,200 in 2017 (Exhibit A-1). The title of the boat is in the Appellant's husband's name, but they consider the boat as family property. The Appellant disagreed with the Respondent's value of the boat of \$6,100 and provided two (2) estimates. One estimate determined the low retail value as \$7,400 and the other listed a trade-in value of \$5,890 (Exhibits A-2 and A-3).

Policy allows the exclusion of one (1) vehicle if the vehicle is used for transportation of the assistance group. Vehicles used solely for recreational use cannot be excluded. The trade-in value of any vehicles that cannot be excluded is used to determine the equity value. The Appellant's

husband has full equity of the 1999 Pontoon boat, which cannot be excluded for transportation purposes. The lowest vehicle estimate provided by the Appellant for the boat is \$5,890. The value of the boat alone exceeds the allowable limit for the Appellant to receive SSI-Related Medicaid. Although the Appellant argued that the boat is considered a “family boat” jointly owned with her sister and brother-in-law who pay the insurance and taxes, the boat is titled solely in the Appellant’s husband’s name, and he is the legal owner of the boat.

Whereas as the Appellant’s countable assets exceed the allowable limit to receive SSI-Related Medicaid, the Respondent’s denial of her application is affirmed.

### **CONCLUSIONS OF LAW**

- 1) The asset limit for SSI-Related Medicaid is \$3,000.
- 2) The Appellant’s husband owns a boat valued at \$5,890.
- 3) The Appellant’s assets exceed the allowable limit to receive SSI-Related Medicaid.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant’s application for SSI-Related Medicaid due to excessive assets.

**ENTERED this 18<sup>th</sup> day of August 2021.**

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**Kristi Logan**  
**Certified State Hearing Officer**