



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 7, 2008

Dear Mr. and Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 29, 2008. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Qualifying Individuals (QI-1) benefits.

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 Qualifying Individuals Program is based on current policy and regulations. Some of these regulations state as follows: Countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. To be eligible for QI-1 coverage, income must be less than or equal to 135 percent of the Federal Poverty Level for the Needs Group size. (West Virginia Income Maintenance Manual Section 10.16)

Information submitted at your hearing reveals that your countable household income is excessive for the QI-1 Program effective March 2008 based on the income limit for a couple.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your QI-1 benefits based on excessive income.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Susan Pomp, ESW, DHHR

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

_____,

Claimants,

v.

Action Number: 08-BOR-801

**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 concluded on March 7, 2008 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 February 29, 2008 on a timely appeal filed February 7, 2008.

It should be noted that the Claimants are receiving continued benefits pending a hearing decision.

II. PROGRAM PURPOSE:

The Qualified Medicare Beneficiary Program is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Qualified Medicare Beneficiary (QMB), the Specified Low Income Medicare Beneficiary (SLIMB), and the Qualifying Individuals (QI-1) Programs provide limited coverage under the Medicaid Program for eligible individuals or couples who are eligible for Medicare, Part A and who meet specified income tests. The QMB Program has a lower maximum income level and provides coverage of all Medicare co-insurance and deductibles as well as payment of the Medicare premium. SLIMB and QI-1 have higher maximum income levels and provide only for the payment of the Medicare Part B premium.

III. PARTICIPANTS:

_____, Claimant

_____, Claimant

Susan Pomp, Economic Services Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in its decision to terminate the Claimants' QI-1 benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 9.12, 10.3, 10.16, 10.22 and Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Hearing request information

D-2 Notice of Decision dated January 28, 2008

D-3 Case Summary

D-4 Electronic mail transmission from Medicare Buy-In Unit to _____

D-5 West Virginia Income Maintenance Manual Sections 10- Appendix A (effective March 2008), 10.16, 10.22, Manual Material Transmission (Change Number 490) and Section 2- Appendix B.

D-6 West Virginia Income Maintenance Manual Section 10- Appendix A (effective October 2007)

VII. FINDINGS OF FACT:

- 1) The Claimants' Qualifying Individuals, hereinafter QI-1, case was due for financial redetermination in December 2007. The Department established the Claimants' continued eligibility and benefits were recertified effective January 2008.
- 2) On January 26, 2008, the Department sent the Claimants a Notice of Decision (D-2) indicating that their QI-1 benefits would stop after February 2008 due to increased Social Security income resulting from an annual cost of living allowance. The

Department had updated this income during a mass computer change on January 25, 2008.

- 3) The Claimants requested a fair hearing on February 7, 2008 as a result of the proposed termination of benefits.
- 4) The Economic Service Worker testified that total household income is \$1,599.80 and the only income deduction for which the Claimants are eligible under the QI-1 Program is a \$20 SSI Disregard. This brings the couple's countable gross income to \$1,579.80. The worker stated that the income limit for a two-person benefit group is \$1,575, as indicated in West Virginia Income Maintenance Manual Section 10, Appendix A (D-5). This income limit was effective March 1, 2008.
- 5) The Claimants do not dispute the Department's calculation of their countable income. Mrs. _____ testified that she had sent correspondence to the Governor's Office and had received a telephone call from a representative of the DHHR in Charleston. She stated that the representative told her Federal Poverty Level income limits would increase in April 2008 and that March 2008 should be the only month in which her income would be excessive for QI-1 benefits. She said she was advised that the only way she could receive QI-1 benefits for March 2008 was to request a fair hearing with continued benefits.
- 6) West Virginia Income Maintenance Manual Section 10.16, B (D-5) states that countable income for the QI-1 Program is determined by subtracting any allowable disregards and deductions from the total non-excluded income. Allowable disregards and deductions are the SSI disregards/deductions specified in Section 10.22, B. The total monthly countable income is then compared to the QI-1 income level for the appropriate number of persons.
- 7) West Virginia Income Maintenance Manual Section 10.22, B, Unearned Income Disregards and Deductions (D-5):

- SSI \$20 Disregard: A \$20 Disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

NOTE: The SSI \$20 disregard is not applied to any unearned income received which is based on need. This includes, but is not limited to, VA benefits based on need. See VA Benefits in Section 10.3.

- Unearned Income Diverted to a PASS: Any unearned income diverted to a PASS account is deducted from income.

- For SSI-Related Children Only: 1/3 of the child support intended for the SSI-Related child is disregarded.

- Death Benefits: The portion of a lump sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual, is deducted.

- 8) West Virginia Income Maintenance Manual Section 9.12 states that the income limit for two persons is used when the QI-1 Needs Group consists of an eligible couple. The income of both individuals is considered when determining eligibility.
- 9) West Virginia Income Maintenance Manual Section 10, Appendix A (effective March 2008), (D-5), states that the QI-1 income limit for a couple is \$1,575.
- 10) West Virginia Income Maintenance Manual Section 10.3 TTT states that Social Security benefits are considered as unearned income for the QI-1 Program.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that countable income for the QI-1 Program is determined by subtracting any allowable disregards and deductions from the total non-excluded income. The income is then compared to the QI-1 income limit for the number of individuals in the Needs Group.
- 2) Policy specifies that Social Security benefits are counted as unearned income for QI-1 purposes and must be included in the income calculation.
- 3) The QI-1 income limit for two people (\$1,575) must be used for an eligible couple.
- 4) Total gross income for the Claimant and her husband totals \$1,599.80 and the only deduction for which the couple qualifies is the \$20 SSI Disregard. Therefore, total countable income is \$1,579.80.
- 5) Because household income is excessive for the QI-1 Program based on the income limit for an eligible couple, the Department acted correctly in terminating the Claimants' QI-1 benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to terminate the Claimants' QI-1 benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th Day of March, 2008.

Pamela L. Hinzman
State Hearing Officer