

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1272251	MED	OVERRULED
No Compliance Required		
Decision Date:	04/27/2006	
Request Date:	02/13/2006	
Hearing Officer:	TINA DYEHOUSE	

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## State Hearing Decision

### **ISSUE SECTION:**

#### Issue #1 – 1272251 (MAD):

In Ohio, most Medicaid for the Disabled recipients with monthly income of more than \$525 must meet a spenddown liability each month. The Clinton County Department of Job and Family Services (Agency) approved the Appellant for Medicaid for the Disabled with a \$2,028 spenddown liability, starting 2-28-06. The Appellant now has a spenddown because he is receiving Veteran's Benefits.

The evidence confirmed that the Agency correctly calculated the Appellant's Medicaid spenddown using Medicaid rules and verified income.

### **PROCEDURAL MATTERS:**

On 1-27-06, the Agency mailed prior notice. On 2-13-06, the Bureau of State Hearings received the Appellant's written request for a state hearing. The hearing was scheduled for 3-2-06. At the Appellant's request, the hearing was rescheduled to 3-17-06 and conducted on that date. Both participants were sworn in: the Appellant; Karen Greiner, Family Support Specialist; and Terri Thompson, Supervisor.

### **FINDINGS OF FACT:**

1. The household consists solely of the Appellant, age 56.
2. The Department of Veteran's Affairs approved the Appellant's application for Veteran's Benefits, filed on 1-31-05. They found that he was totally disabled due to bone and prostate cancer and entitled to service-connected compensation benefits, starting 2-1-05. The Appellant estimates that he started to receive his first benefit of \$2,573 in August 2005. (exhibit B)
3. The Agency receives Medicaid for the Disabled from the Agency. When the Agency learned about the Appellant's increase in income, they redetermined the Appellant's Medicaid eligibility using the increased income (exhibit C).

4. On 1-27-06, they notified the Appellant that he would have a Medicaid spenddown of \$2,028, starting 2-28-06 (exhibit D).

## **CONCLUSIONS OF POLICY:**

### **Policy**

1. The Medicaid need standard is \$525, in 2006, per Medicaid Eligibility Procedure Letter No. 7, Medicaid Eligibility Manual (effective 1-1-06).

2. If an applicant has income in excess of the \$525 Medicaid need standard, the applicant is not eligible for regular Medicaid. The applicant may become eligible through the Medicaid spenddown process as regulated and defined by Ohio Admin. Code § 5101:1-39-10 (2002).

The spenddown amount is the amount of the Medicaid recipient's countable income that is over the \$525 Medicaid need standard. The budgeting process for determining the spenddown amount is set forth in Ohio Admin. Code § 5101:1-39-10(D) (2002). After the Agency makes the proper deductions from countable income, the remainder of the countable income over the need standard is the spenddown amount, § (D)(4)(b).

3. Payments made to Medicaid recipients under the Agent Orange Compensation Exclusion Act are not counted as income for Medicaid eligibility, Ohio Admin. Code § 5101:1-39-18(B)(18) (1999).

4. The Hearing Officer's findings of fact must be based exclusively on the evidence introduced at the hearing. The rule further states that the Agency is responsible for showing, by a preponderance of the evidence, that its action or inaction was in accordance with department rules Ohio Admin. Code § 5101:6-7-01 (C) (2003).

### **Analysis**

The Appellant did not dispute the income information used by the Agency. But he explained that he was concerned because the spenddown is so high. Also, the Appellant and the Agency wanted to confirm that the Appellant's income does not meet the exemption for income received under the Agent Orange exclusion act, as cited above.

The Appellant's VA award letter confirms that his cancer was found to be presumptively connected to service exposure to the chemical Agent Orange. But unfortunately, the exemption in the Medicaid rules refers only to money that was awarded as part of a settlement in a lawsuit against the manufacturer of Agent Orange. The Appellant's VA benefits count as income for Medicaid. The Appellant should be eligible for free medical care at the VA Medical Center.

Recipients of Medicaid must meet certain income limits or need standards. The need standard for Medicaid for the Disabled is \$525 per month in 2006. When the Appellant's countable income increased to \$2,573 per month, the Agency had to redetermine his eligibility. The spenddown amount is the difference between the need standard and the countable income. There is a \$20 general disregard of Appellant's VA income. The Agency correctly calculated the Appellant's current spenddown as follows:

\$2,573 Total unearned income (VA benefits)  
S \$ 20 Income disregard  
= \$2,553 Countable unearned income

\$2,573 Countable income for Medicaid  
S \$ 525 Medicaid need standard  
= \$2,028 Medicaid spenddown

The evidence confirmed that the Agency correctly calculated the Appellant's Medicaid spenddown using Medicaid rules and verified income.

**HEARING OFFICER RECOMMENDATIONS:**

Issue #1 – 1272251 (MAD):

Appeal number 1272251 should be OVERRULED.

**FINAL ADMINISTRATIVE DECISION AND ORDER:**

Issue #1 – 1272251 (MAD):

Finding the hearing officer's decision to be supported by the evidence, the recommendation shown above is adopted. The appeal is OVERRULED.



Ethan Chase, Hearing Authority

April 27, 2006

**Notice to Appellant**

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form must be received by the Bureau of State Hearings within 15 calendar days from the date this decision is issued. (If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.) During the 15-day administrative appeal period, you or your representative may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu). If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

**Aviso a la Apelante**

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

## Appendix

### **Exhibits:**

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
BUREAU OF STATE HEARINGS**

Appellant:

1 – State hearing request – 2 pp

Agency:

A – Appeal summary

B – Veteran’s Benefits award letter and decision – 10 pp

C – Medicaid benefit determination budget screen

D – Notice history detail screen