



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, West Virginia 25313

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

June 25, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2202

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,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, Economic Service Worker

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

██████████,

Appellant,

v.

Action Number: 15-BOR-2202

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on June 25, 2015, on an appeal filed May 14, 2015, and received by the Board of Review on June 4, 2015.

The matter before the Hearing Officer arises from the April 21, 2015 decision by the Respondent to discontinue the Appellant's receipt of Medicare Premium Assistance (Qualified Individual Phase 1 or QI-1) Medicaid due to excessive income.

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

Department's Exhibits:

- D-1 Case Comments computer screen print dated December 17, 2014 through April 20, 2015
- D-2 Correspondence from the Respondent to the Appellant, dated April 21, 2015
- D-3 Income Chart, revision date June 2015
- D-4 Unearned Income computer screen prints, effective period April 2015
- D-5 SSI-Related Medicaid Income Budget computer screen print, payment begin date May 1, 2015

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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 Medicare Premium Assistance, specifically Qualified Individual Phase 1 (QI-1) Medicaid, a medical assistance program that pays a recipient's Medicare Part B premium amount.
- 2) On April 21, 2015, the Department issued a letter notifying the Appellant that her Medicare Premium Assistance application was denied due to excessive income. (Exhibit D-2)
- 3) The Appellant receives unearned income in the amount of \$818.90 per month from the Social Security Administration due to her disability. (Exhibit D-4)
- 4) The Appellant receives unearned income in the amount of \$563.00 per month from the Social Security Administration as a surviving spouse, due to the death of her husband. (Exhibit D-4)
- 5) The Appellant's does not receive any source of earned income.
- 6) The Appellant's household income totals \$1381.90 per month. The Appellant is eligible for a \$20 unearned income disregard, making her countable income for the QI-1 Medicaid \$1361.90.
- 7) The gross income limit to receive QI-1 Medicaid benefits is \$1325.00 per month.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §10.16.B, states that in order to be eligible for QI-1, a person's income must be greater than 120% of the Federal Poverty Level (FPL), but less than or equal to 135% of the FPL.

WV IMM §10.22.B.2, states that for QI-1, unearned income is subject to a \$20 income disregard, and that the SSI Earned Income Disregard of \$65 and ½ of the remainder is applied to earned income and gross profit from self-employment earnings.

WV IMM Chapter 10, Appendix A, indicates that in in April 2015, the income guidelines for QI-1 was between \$1178 and \$1325 per month for one person.

WV IMM §16.6.E, states that QI-1 pays for a recipient's Medicare Part B premium.

DISCUSSION

The Appellant contended that the Department erred when calculating her income deductions. The Appellant testified that the Department failed to give her what is known as a SSI Earned Income Disregard of \$65 and ½ of the remainder. Policy establishes that the SSI Earned Income Disregard only applies to earned income or self-employment earnings. The Appellant has no source of earned income or self-employment and is therefore, not eligible for SSI Earned Income Disregard. All applicable unearned income disregards were provided to the Appellant.

Policy is clear that in order to be eligible for QI-1 Medicaid, the applicant's gross monthly income cannot exceed \$1325 per month. Because the Appellant's monthly income is more than \$1325 per month, she is not eligible to receive QI-1.

CONCLUSION OF LAW

Because the Appellant's monthly income is above the income guidelines for Medicare Premium Assistance (QI-1), the Department acted correctly to deny her application for QI-1, in accordance with West Virginia Income Maintenance Manual §10.16.B and Appendix A.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department's decision to deny the Appellant's application for QI-1 Medicaid.

ENTERED this 25th Day of June, 2015.

**Donna L. Toler
State Hearing Officer**