



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

September 22, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2735

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
State Hearing Officer
Member, State Board of Review

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

cc: Beverly Ballengee, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 15-BOR-2735

**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 September 17, 2015, on an appeal filed August 3, 2015.

The matter before the Hearing Officer arises from the July 28, 2015, decision by the Respondent to terminate the Appellant's Qualified Medicare Beneficiary benefits.

At the hearing, the Respondent appeared by Beverly Ballengee, Family Support Supervisor. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████ and ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Scheduling Order
- D-2 Hearing/Grievance Request Notification
- D-3 Hearing Request received August 10, 2015
- D-4 Notice of Decision dated July 28, 2015
- D-5 West Virginia Income Maintenance Manual Chapter 10, Appendix A
- D-6 Department's Summary

Appellant's Exhibits:

- A-1 Medical Records for ██████████, ██████████, ██████████
██████████ and ██████████

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 was a recipient of Qualified Medicare Beneficiary (QMB) benefits.
- 2) The Appellant completed a redetermination for QMB on July 17, 2015.
- 3) The Department issued a Notice of Decision (D-4) on July 28, 2015, advising the Appellant that her QMB benefits were terminated effective August 31, 2015, due to excessive income.
- 4) The Appellant receives Social Security benefits of \$1,002 gross a month.
- 5) The income limit for QMB benefits for an Assistance Group of one (1) is \$981.
- 6) The Appellant was approved for Specified Low Income Medicare Beneficiary (SLIMB) benefits effective September 1, 2015.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §10.16B states that for QMB and SLIMB coverage groups, countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. Countable income is determined as follows:

Step 1: Determine the total non-excluded gross unearned income and subtract the appropriate disregards. See Section 10.22.B.

Step 2: Determine the total non-excluded gross earned income.

Step 3: Add unearned income from Step 1 above.

Step 4: Subtract the amount of income diverted to a PASS account and the Death Benefit deduction.

The result is the total monthly countable income.

Step 5: Compare the amount in Step 4 to the QMB, SLIMB or QI-1 income levels for the appropriate number of persons. If the amount is less than or equal to the QMB or SLIMB income levels, the client is eligible.

Eligibility for these coverage groups is determined as follows:
QMB - Income is less than or equal to 100% Federal Poverty Level (FPL).
SLIMB - Income is greater than 100% FPL, but less than or equal to 120% FPL.

West Virginia Income Maintenance Manual §10.22.B allows for a \$20 deduction from the total gross non-excluded income for QMB and SLIMB coverage groups.

West Virginia Income Maintenance Manual Chapter 10, Appendix A lists 100% FPL as \$981 and 120% FPL as \$1,178.

DISCUSSION

Policy allows for a \$20 deduction from an individual's gross countable unearned income. After this deduction is applied, the income must be at or below 100% of the federal poverty level, or \$981. The Appellant's countable income after the allowable deduction is \$982. This amount exceeds the allowable limit as set forth in policy.

CONCLUSIONS OF LAW

Whereas the Appellant's income is excessive to continue receiving Qualified Medicare Beneficiary, the Department correctly terminated the Appellant's benefit.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's termination of the Appellant's Qualified Medicare Beneficiary benefits.

ENTERED this 22nd day of September 2015

**Kristi Logan
State Hearing Officer**