



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

Earl Ray Tomblin  
Governor

BOARD OF REVIEW  
P.O. Box 1247  
Martinsburg, WV 25402

Karen L. Bowling  
Cabinet Secretary

November 18, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-3035

Dear [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,

Lori Woodward  
State Hearing Officer  
Member, State Board of Review

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

cc: Rachel Hartman, WV DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-3035**

**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 convened on November 17, 2015, on appeal filed September 30, 2015.

The matter before the Hearing Officer arises from the September 18, 2015, denial of Appellant's Adult Medicaid and Medicare Premium Assistance benefits.

At the hearing, the Respondent appeared by Rachel Hartman, Economic Services Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Medicaid application, signed and dated September 14, 2015
- D-2 WV Income Maintenance Manual Chapter 10, Appendix A
- D-3 Screen print from Appellant's eRAPIDS Assistance Group (AG) Composition Details
- D-4 Denial letter, dated September 18, 2015

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 West Virginia Medicaid on September 14, 2015. (Exhibit D-1)
- 2) The Appellant receives Social Security Disability Income (SSDI) of \$1344.90, and his wife receives earned income of \$1504.96. The total monthly gross income in the Appellant's Assistance Group is \$2849.86. (Exhibits D-1, D-2, and D-4)
- 3) The Appellant receives Medicare Part A and B. By policy, he is ineligible to receive adult Medicaid benefits under the non-asset tested Medicaid expansion adult coverage category.
- 4) The Appellant was over income for Medicare Premium Assistance program eligibility. (Exhibits D-2 and D-4).
- 5) The Appellant may be eligible for SSI-related Medicaid, which is an asset tested Medicaid program. However, because the Appellant did not provide the requested asset information needed for program eligibility determination, he was not considered for this Medicaid coverage group.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (IMM) §16.5.F explains the Patient Protection and Affordable Care Act established new categorically coverage group known as the Adult Group. Eligibility for this group is determined using Modified Adjusted Gross Income (MAGI) methodologies established in Section 10.8. This is a non-asset tested coverage group whose Assistance Group (AG) gross income must not be more than 133% Federal Poverty Level (FPL), and the individual is over the age of 19 and under age 65. Additionally, the individual must not be eligible for another categorically mandatory Medicaid coverage group:

- SSI
  - Deemed SSI
  - Parents/Caretaker Relatives
  - Pregnant Women
  - Children Under Age 19
  - Former Foster Children
- They are not entitled to or enrolled in Medicare Part A or B.  
- The income eligibility requirements described in Chapter 10 are met.

IMM §16.6.C-E explains that there are three categories under Medicare Premium Benefit coverage: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLIMB) (SLMB), and Qualified Individual (QI-1) (QIA). An individual or couple (spouses) is eligible for limited\* Medicaid coverage when all of the following conditions are met:

- The individual must be enrolled in Medicare, Part A. He must be entitled in any of the following three 3 ways:
  - By being age 64 years, 9 months old or older; or
  - By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 24 months or longer; or
  - By having end stage renal disease.
- The individual or couple must meet the income test detailed in Chapter 10.
- The individual or couple must meet the asset test detailed in Chapter 11.

IMM §16.9 states that for SSI-Related Medicaid coverage, an individual is subject to a spenddown provision. Additionally, individuals who meet the SSI definition of aged (aged means 65 years or over), blind or disabled are eligible for Medicaid when all of the following conditions are met:

- Countable income is under the Medical Needy Income Limit (MNIL).

The income eligibility requirement is detailed in Chapter 10. However, no SSI-Related case is denied due only to excess income. Instead, incurred medical bills are deducted from countable income for the 6-month Period of Consideration. This process is called spenddown and details of this procedure are in Chapter 10.

Eligibility and the amount of the spenddown, if any, are determined using the MNIL. The level of the MNIL is determined by each state according to federal guidelines. By law, the MNIL cannot exceed 133% of the State's former AFDC cash assistance payment level, rounded to the nearest \$100, for a family of the same size.

NOTE: Under some circumstances the MNIL for two people is used when determining eligibility for only one person. This is also explained in Chapter 10.

NOTE: An AG which meets a spenddown remains eligible until the end of the POC in the following situations, regardless of whether or not the individual is an AG member.

- Countable assets do not exceed the limits described in Chapter 11.

### **DISCUSSION**

Per policy, to be eligible for the Medicaid expansion category of Adult Medicaid, which is not asset tested, an individual must not receive, or be eligible to receive, Medicare. In considering other possible potential Medicaid coverages for the Appellant, the Respondent calculated the Appellant and his wife's gross monthly income and determined that he may be eligible for SSI-Related Medicaid which is asset tested. The Respondent also considered the Appellant's potential eligibility for Medicare Premium Assistance benefits; however, he was determined to be over income for this type of assistance.

The Appellant did not contest the calculations used for Medicaid determination. Additionally, he did testify that he failed to return the requested asset information to the Respondent which was needed for consideration for potential SSI-Related Medicaid.

### **CONCLUSIONS OF LAW**

1. Because the Appellant received Medicare, he was ineligible for Adult Medicaid benefit. The Respondent was correct to deny this Medicaid coverage group.
2. Because the Appellant was over income for Medicare Premium Assistance, the Respondent was correct to deny this Medicaid coverage.
3. Because the Appellant failed to provide asset information, he was not considered for SSI-Related Medicaid coverage.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the Appellant's Medicaid application.

**ENTERED this 18<sup>th</sup> day of November, 2015.**

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**Lori Woodward, State Hearing Officer**