



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
P.O. Box 1247  
Martinsburg, WV 25402

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

December 2, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-3278

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: WV DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 15-BOR-3278**

**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 December 1, 2015, on an appeal filed October 16, 2015.

The matter before the Hearing Officer arises from the determination by the Respondent to close the Appellant's Qualified Medicare Beneficiary (QMB) coverage benefits and begin Qualified Individual-1 (QI-1) coverage benefits.

At the hearing, the Respondent appeared by James Phillips, Community Services Manager. The Appellant appeared *pro se*. Also in attendance were the Appellant's wife, ██████████, and his daughter, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 WV Income Maintenance Manual §9.12, §10.4, §10.16 and §16.6 (excerpts)
- D-3 Notice of QI-1 eligibility, dated July 28, 2014

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) In May 2015 the Appellant notified his local DHHR office of his marriage. (Exhibit D-1)
- 3) The Appellant and his wife receive Medicare and have a combined unearned gross income of \$1657.
- 4) Notice was sent to the Appellant on May 14, 2015 informing him that his Assistance Group (AG) income limit exceeded QMB eligibility and that the benefits under that type of Medicare premium assistance would stop May 31, 2015. (Exhibit D-3)
- 5) On July 28, 2015, the Respondent sent notice of QI-1 eligibility to the Appellant. (Exhibit D-3)

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (IMM) §9.12 explains that spouses eligible for limited Medicare benefit coverage must be included together in the AG. The spouse's income is counted in determination of program eligibility.

IMM §16.6 mandates that program eligible income levels for the limited Medicare benefit are: QMB is 100% Federal Poverty Level (FPL); Specified Low-Income Medicare Beneficiaries (SLIMB) is 101% - 120% FPL; QI-1) is 121% - 134% FPL.

IMM §10, Appendix A shows the income limits for the three different limited Medicare benefits in a two person AG are: QMB \$1328, SLIMB \$139 - \$1593, and QI-1 \$1594 - \$1793.

## **DISCUSSION**

The Appellant reported his marriage to his wife in May 2015 to his local DHHR office. Per policy, his new wife must be included in his AG in determining QMB coverage. By adding her income, he became ineligible for QMB limited Medicare benefits and qualified instead for QI-1 coverage, which only covers his Medicare premium costs.

The Appellant did not dispute the income used in the Respondent's determination of QI-1 coverage. He contested policy which includes his wife's income in determination of benefit eligibility. The Board of Review lacks the authority to change policy.

### **CONCLUSION OF LAW**

Because policy requires eligible spouses' income be included in determination of limited Medicare eligibility, the Department correctly closed the Appellant's QMB benefits and determined his QI-1 benefit coverage.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to close the Appellant's Qualified Medicare Beneficiary program benefits and determine QI-1 benefit coverage.

**ENTERED this 2<sup>nd</sup> day of December 2015.**

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**Lori Woodward, State Hearing Officer**