



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

Bill J. Crouch
Cabinet Secretary

Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326

M. Katherine Lawson
Inspector General

February 28, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-3001

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29
cc: Kimberly Donley, [REDACTED] County DHHR
[REDACTED], Appellant's Relative

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-3001

**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 January 25, 2018, on an appeal filed December 14, 2017.

The matter before the Hearing Officer arises from the December 11, 2017 decision by the Respondent to deny Medicaid eligibility for Medicare Premium Assistance.

At the hearing, the Respondent appeared by Kimberly Donley, Economic Service Supervisor. The Appellant was represented by her daughter, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Department of Health and Human Resources (DHHR) Denial Notice, dated December 11, 2017
- D-2 DHHR Termination Notice, dated December 11, 2017
- D-3 West Virginia Income Maintenance Manual (WVIMM) §4.3.1
- D-4 WVIMM §4.12
- D-5 WVIMM §4 Appendix A

Appellant's Exhibits:

- A-1 ██████████ Statements, dated November 11, 2017, and December 11, 2017
- A-2 ██████████ Statement, dated December 22, 2017
- A-3 City of ██████████ Utilities Statement, dated December 29, 2017
- A-4 ██████████ Statement, dated January 9, 2018; ██████████ Statement, dated January 16, 2016; ██████████ Statement, dated January 11, 2018
- A-5 Social Security 2018 Benefit Amount Statements
- A-6 ██████████ Correspondence and Estimates

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant and her husband were members of a two-person Assistance Group (AG). (Exhibits D-1 and D-2)
- 2) The Appellant's husband was a recipient of Medicaid Qualified Individuals (QI) Medicare Premium Assistance benefits. (Exhibit D-2)
- 3) The Appellant applied for Medicare Premium Assistance benefits. (Exhibit D-1)
- 4) On December 11, 2017, notices were issued terminating the Appellant's husband's Medicaid QI benefits and denying the Appellant's Medicaid eligibility for Medicare Premium Assistance due to the AG income exceeding the Medicaid income eligibility guidelines. (Exhibits D-1 and D-2)
- 5) The monthly gross unearned income for the Appellant's AG totaled \$2,224.00. (Exhibits D-1, D-2, and A-5)
- 6) A \$20 income disregard was applied to the AG's gross monthly income. (Exhibits D-1 and D-2)
- 7) The AG was not eligible for additional income disregards. (Exhibits D-1 through D-5, and A-1 through A-6)
- 8) The AG's monthly countable income totaled \$2,204. (Exhibits D-1 and D-2)
- 9) To be eligible for Medicare Premium Assistance, the monthly countable income for a two-person AG must be equal to or below the Medicaid QI income eligibility limit of \$1,828. (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §4.12.1 Determining Eligibility for Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLIMB), or Qualifying Individuals (QI) provides in part:

Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income... Countable income is determined as follows:

- Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions...
- Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions...
- Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income.
- Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI income levels for the appropriate number of persons...

If the amount is less than or equal to the QMB, SLIMB, or QI 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

QI- Income is greater than 120% FPL, but less than or equal to 135% FPL

WVIMM §4.14.2 Income Disregards and Deductions provides in part:

The following disregards and deductions are applied, if applicable:

- Earned Income
- SSI \$20 Disregard
- SSI Earned Income Disregard
- SSI Impairment-Related Work Expenses
- SSI Work-Related Expenses (Blind Persons Only)
- Earnings Diverted to a Plan to Achieve Self-Support (PASS)
- SSI Student Child Earned Income Disregard
- SSI-Related child support
- Death Benefits (lump sum)

WVIMM §4.14.2 B.1 SSI-Related Medicaid Unearned Income Disregards and Deductions provides in part:

SSI \$20 Disregard: A \$20 disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

DISCUSSION

The Appellant and her husband were members of a two-person Assistance Group (AG). The Appellant's husband received Medicaid Qualifying Individuals (QI) Medicare Premium Assistance. The Appellant applied for Medicare Premium Assistance benefits. On December 11, 2017, the Respondent issued notices denying the Appellant's eligibility for Medicare Premium Assistance and terminating the existing QI benefits of the AG due to the AG's income exceeding Medicaid income eligibility guidelines. The Appellant disagreed with her Medicaid eligibility denial and contended that the AG's living expenses should be used to determine the AG's countable income.

The Respondent had to demonstrate by a preponderance of evidence that it correctly applied policy in calculating the Appellant's countable income to determine the AG's Medicaid benefit eligibility. Evidence demonstrated that the AG's gross monthly income totaled \$2,224. The Appellant argued that living expenses should be considered in calculating the amount of income used to determine the AG's countable income. Policy provides that countable income is derived from the AG's gross monthly income prior to the application of deductions and income disregards. The Appellant's AG qualified for application of the \$20 Unearned Income Disregard.

Total AG Gross Income: \$2,224
- 20 Unearned Income Disregard
\$2,204 Countable Income

Living expenses such as vehicle insurance, home insurance, utility cost, medication cost, and Medicare healthcare cost are not eligible deductions that can be used to determine AG countable income for Medicaid eligibility. The Board of Review does not have the authority to calculate countable income by including income deductions or disregards not considered by policy. Evidence did not demonstrate that the Appellant's AG was eligible for additional income disregards.

Pursuant to policy, to be awarded Medicaid eligibility for Medicare Premium Assistance, the Appellant's countable income must be less than or equal to \$1,828. The Respondent correctly determined that the Appellant was not eligible for Medicaid benefits because the AG's income exceeded the Federal Poverty Level (FPL) by \$376.

CONCLUSIONS OF LAW

- 1) The countable income for the Appellant's two-person Assistance Group (AG) totaled \$2,204.
- 2) To be eligible for Medicare Premium Assistance, the AG's monthly countable income must be less than or equal to \$1,828.
- 3) The Respondent correctly denied the Appellant eligibility for Medicare Premium Assistance due to the AG's income exceeding the Medicaid income eligibility limit by \$376.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant Medicaid eligibility for Medicare Premium Assistance due to the Assistance Group's income exceeding the Medicaid income eligibility limit as outlined in the December 11, 2017 notice.

ENTERED this 28th day of February 2018.

Tara B. Thompson
State Hearing Officer