



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

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Cabinet Secretary

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November 20, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 18-BOR-2314

Dear Mr. and 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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Sherry Mullins, WV DHHR, [REDACTED] County Office



- D-7 U.S. Internal Revenue Service (IRS) Form 1065, Business Tax Statement for Paynter's Root and Recycling, tax year 2017
- D-8 IRS Form 1065, Business Tax Statement for [REDACTED], tax year 2017
- D-9 IRS Form 1040 Personal Income Tax Return for Appellants, tax year 2017
- D-10 Notice of Tax Documents Filing from [REDACTED] and Tax Service, [REDACTED] WV, to Appellants, dated April 18, 2018

**Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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 Appellants were recipients of Adult Medicaid (MGAD). In June 2018, the Department mailed the Appellant a yearly benefit review form.
- 2) The Appellants completed and returned the review form to the [REDACTED] County Office of the WV DHHR on August 3, 2018. The Appellants reported income from two businesses, a metals recycling business and a home flooring installation service.
- 3) The Respondent requested additional information from the Appellants to verify their household income, specifically, their business income tax records. The Appellants provided this information on August 9, 2018.
- 4) The Respondent determined that the Appellants earned \$17,323.66 each, or \$34,647.32, from the metals recycling business in 2017 (Exhibit D-7). This equates to \$2,887.28 per month.
- 5) The Respondent determined that the Appellant Mr. [REDACTED] earned \$8,889 from the home flooring installation service in 2017 (Exhibit D-8). This equates to \$740.75 per month.
- 6) The combined monthly income from both income sources, \$3608.03, is more than the MGAD income guidelines for a three-person household, \$2304.
- 7) On August 24, 2018, the Respondent sent the Appellants a letter (Exhibit D-2, pages 5 through 12) informing them that their MGAD coverage would end after August 31, 2018, due to excessive income.
- 8) The Appellants requested a fair hearing to protest the closure of their eligibility for Adult Medicaid (MGAD).

## APPLICABLE POLICY

The WV DHHR Income Maintenance Manual (WV IMM), Chapter 4, §4.4.4.D.1 reads as follows, “Gross income includes the net proceeds from the sale of capital goods or equipment.”

The WV IMM Chapter 4, §4.4.4.D.2 reads as follows:

Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income.

Examples of allowable deductions include, but are not limited to:

- Employee labor costs, including wages paid to an AG [Assistance Group] member and any salary the client pays himself [or herself];
- Stock and supplies;
- Raw material;
- Seed;
- Fertilizers;
- Repair and maintenance of machinery and/or property;
- Cost of rental space used for conducting the business;
- Payments on the principle and interest of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods;
- Insurance premiums and taxes paid on the business and income-producing property;
- The utilities, principle, interest, and taxes for the client’s residence which is used in part to produce income;
- Advertising costs;
- Utilities;
- Office expenses;
- Legal costs;
- Net loss from self-employment farming.

Do not deduct the following:

- Federal, state, or local income taxes;
- Money set aside for retirement;
- Travel from home to a fixed place of business and return;
- Depreciation;
- Amounts claimed as a net loss, except loss from farming self-employment.

The WV IMM Chapter 4, Appendix A states that the income limit for Adult Medicaid (MGAD) is 133% of the Federal Poverty Level, or \$2,304 per month for a three-person household.

The WV IMM Chapter 7, §7.2.3 reads as follows:

The primary responsibility for providing verification rests with the client.

Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in one of the following:

- Denial of the application;
- Closure of the assistance group;
- Determination of ineligibility;
- Disallowance of an income deduction or an incentive payment.

### **DISCUSSION**

The Appellants participated in a yearly review of their eligibility for Adult Medicaid (MGAD). As verification their income, the Appellants submitted their income tax statements from 2017 which showed two income sources. The first income source is a metals recycling business, [REDACTED], owned by both Appellants and a third party who is not part of their household. Their gross income was divided by three and multiplied by two in order to determine the total income for both Appellants. The second business is a home flooring installation service owned by the Appellant Mr. [REDACTED] and a second individual who is not a member of the Appellants' household. This income was divided by two.

Gross receipts or sales from the metals recycling business for 2017 was \$390,773 (Exhibit D-7). After accounting for returns and allowances, line 2 from the business income tax return (Exhibit D-7), the business reported a gross profit of \$84,198. The Respondent allowed deductions in the amount of \$32,281 from this profit, leaving \$51,971 as adjusted income. Since the Appellants had a third partner in this business, who was not a member of their household, the income was divided by three ( $\$51,971 \div 3 = \$17,323.67$ ), so that each member of the partnership was deemed to have earned \$17,373.67. The two shares of the Appellants ( $\$17,323.67 \times 2$ ) amounted to \$34,647.34 in yearly income. This amount divided by 12 equals \$2,887.28, the Appellants' monthly income from this business.

For the flooring installation business, the Appellant Mr. [REDACTED] had a partner who was not a member of the Appellants' household. The business was arranged so that regardless of the business earnings, the partners received guaranteed payments in the amount of \$35,200 per year. The Respondent allowed \$17,422 in deductions from this income, leaving a balance of \$17,778 in adjusted income. Since Mr. [REDACTED] owned half of the business, his gross earnings were  $\$17,778 \div 2$ , or \$8,889. This amount divided by 12 equals \$740.75, the Appellants' monthly income from this business.

These two amounts combined, \$2,887.28 and \$740.75, equal \$3,628.03, the Appellants' monthly self-employment income. This amount is more than the income guidelines for MGAD Medicaid for a three-person household, the Appellants and their child.

The Appellant's representative, their personal and business accountant, argued that the Respondent did not use the correct adjusted income for the household according to the Internal Revenue Service's (I.R.S.) allowable deductions to net earnings. She stated that with the allowable

deductions, the flooring installation service operated at a loss in 2017, so none of that income should have counted toward the Appellants' eligibility for MGAD. She stated that the adjusted gross income from the metals recycling business was \$18,318 for 2017, which equals \$1,526.50 per month. This amount is within the income guidelines for MGAD for a three-person household.

The Respondent's representative testified that I.R.S. allowable deductions may not be identical to WV DHHR allowable deductions. She stated that in the Appellants' tax documents, they listed certain miscellaneous expenses but did not itemize for what purposes their businesses incurred these expenses. She stated that by policy found in the WV Income Maintenance Manual, §§7.2.3 and 10.4.2.B.4, the submission of unclear information may result in the disallowance of income deductions. She added that there was \$20,527 in disallowed deductions from the metals recycling business and \$626 in disallowed deductions from the flooring installation service, which increased the income from these businesses.

Evidence presented shows that the Respondent correctly calculated the Appellants' monthly income as \$3,628 per month, which is above the income guidelines for MGAD Medicaid eligibility for an assistance group of three.

### **CONCLUSIONS OF LAW**

- 1) The Appellants submitted their 2017 tax returns as income verification, pursuant to their yearly redetermination for MGAD Medicaid eligibility.
- 2) Their tax returns reported income above the income guidelines for a three-person assistance group.
- 3) The Respondent acted correctly to discontinue the Appellants' eligibility for MGAD Medicaid due to excessive income, pursuant to WV DHHR IMM Chapter 4, Appendix A.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to discontinue the Appellant's eligibility for Adult Medicaid (MGAD).

**ENTERED this 20<sup>th</sup> Day of November 2018.**

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**Stephen M. Baisden  
State Hearing Officer**