



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

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
P.O. Box 1736
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Jolynn Marra
Interim Inspector General

January 6, 2022

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-2448

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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Peter VanKleck, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 21-BOR-2488

**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 4, 2022, on an appeal filed December 1, 2021.

The matter before the Hearing Officer arises from the November 3, 2021 decision by the Respondent to deny the Appellant's request for Medicaid assistance.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 PATH Application
- D-3 West Virginia Income Maintenance Manual § 3.7.3
- D-4 Income Verification
- D-5 West Virginia Income Maintenance Manual § 4.7.4
- D-6 West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-7 Notice of Decision dated November 3, 2021

Appellant's Exhibits:

None

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) On October 18, 2021, the Appellant applied for Medicaid assistance for herself. (Exhibit D-2)
- 2) The Appellant reported that her household consisted of herself and her two children.
- 3) The Appellant has a custodial court agreement through a divorce decree which allows her to claim one child as a tax dependent.
- 4) The Appellant has a monthly gross earned income of \$2,312.54.
- 5) On November 3, 2021, the Respondent issued a Notice of Decision (Exhibit D-7) informing the Appellant her request for Medicaid assistance had been denied due to excessive income.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 3.7.3 document in pertinent part:

The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer.

West Virginia Income Maintenance Manual § 4.7.4 documents in pertinent part:

The applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage groups.

STEP 1: Determine the MAGI-based gross monthly income for each MAGI household income groups (IG).

STEP 2: Convert the MAGI household's gross monthly income to a percentage of the FPL by dividing the current monthly income by 100% of the FPL for the household size. Convert the result to a percentage.

If the result from Step 2 is equal to or less than the appropriate income limit, no disregard is necessary, and no further steps are required.

STEP 3: If the result from Step 2 is greater than the appropriate limit, apply the 5% FPL disregard by subtracting five percentage points from the converted monthly gross income to determine the household income.

STEP 4: After the 5% FPL income disregard has been applied, the remaining percent of FPL is the final figure that will be compared against the applicable modified adjusted gross income standard for the MAGI coverage groups.

West Virginia Income Maintenance Manual § 23.10.4 documents in pertinent part:

As a result of the Affordable Care Act (ACA), the Adult Group was created, effective January 1, 2014. Eligibility for this group is determined using MAGI methodologies. Medicaid coverage in the Adult Group is provided to individuals who are aged 19 or older and under age 65.

To be eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

West Virginia Income Maintenance Manual Chapter 4 Appendix A documents in pertinent part:

For a two-person AG, 133% of the FPL is \$1,931

DISCUSSION

For Medicaid eligibility purposes, an Assistance Group (AG) must consist of the applicant and any other dependents in the tax filer's household. Additionally, the household's income cannot exceed the Medicaid eligibility income limits for the determined AG.

To prove that the Respondent correctly denied the Appellant's Medicaid application, the Respondent had to demonstrate by a preponderance of the evidence that the Appellant's household's income exceeded the Medicaid eligibility income limits for a two-person AG. Through a divorce decree, the Appellant may only claim one child as a tax dependent. Policy dictates that to be eligible for Medicaid benefits, a household's income for a two-person AG must be equal to or below 133% of the Federal Poverty Level or \$1,931.00. The Respondent determined the Appellant's monthly household income was \$2312.54 or 159.26% of the Federal Poverty Level. For further consideration, the Respondent applied an allowable 5% income disregard to the Appellant's monthly income; however, the income exceeded the limits established by policy.

The Appellant contested the Respondent's denial of her Medicaid application arguing that she is unable to afford health insurance through any other means. The Appellant did not contest the Respondent's calculation of the monthly gross amount and understood the process of determining eligibility. The Appellant offered testimony indicating she previously received health insurance coverage through her spouse but has since lost the coverage due to divorce. The Appellant confirmed the custodial agreement that allows her to claim one of her children as a tax dependent and indicated that she has been unsuccessful in negotiations with her ex-spouse to allow her the ability to claim both children as tax dependents. The Appellant related her own health issues and an inability to afford health care coverage and pleaded with the Hearing Officer for considerations to obtain medical assistance.

The Hearing Officer is unable to grant eligibility beyond the established policy. Based upon information presented for review, the Respondent correctly calculated the Appellant's allowable income. Because the Appellant's income exceeded the limits established by policy, the Respondent was correct in its decision to deny the request for Medicaid assistance.

CONCLUSIONS OF LAW

- 1) To be determined eligible for Adult Medicaid benefits, the Appellant's monthly gross income must be equal to or below 133% of the Federal Poverty Level or \$1931 for a two-person Assistance Group.
- 2) The Appellant's monthly gross income of \$2,312.54 exceeded the income limit for eligibility.
- 3) The Respondent correctly denied the Appellant's application for Medicaid assistance.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to deny the Appellant's application for Medicaid assistance.

ENTERED this _____ day of January 2022.

Eric L. Phillips
State Hearing Officer