



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

Jim Justice
Governor

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

Bill J. Crouch
Cabinet Secretary

Esta es la decision de su Audiencia Imparcial. La decision del Departamento ha sido confirmada/invertido/remitido. Si usted tiene preguntas, por favor llame a Phillip Owens, 304-267-0100, ext. 71054

January 11, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR, ACTION NO.: 17-BOR-2751

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: Peter VanKleeck, BCF, [REDACTED] Co. DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

[REDACTED],

Appellants,

v.

Action Number: 17-BOR-2751

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 [REDACTED]. 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 January 10, 2018, on appeal filed October 31, 2017.

The matter before the Hearing Officer arises from the June 27, 2017, decision by the Respondent to close the Appellant's Adult Medicaid benefits on July 31, 2017.

At the hearing, the Respondent appeared by Peter VanKleeck, Economic Service Supervisor. The Appellants appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Medicaid Renewal (MREV) dated November 14, 2016
- D-3 Notice of denial dated June 27, 2017
- D-4 WV Income Maintenance Manual (IMM) Chapter 9.3.1.A
- D-5 IMM Chapter 4, Appendix A

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) The Appellants were receiving Adult Medicaid benefits.
- 2) On the Medical Renewal form (MREV) submitted by the Appellants, signed December 1, 2016, the income reported was Appellant [REDACTED] Veteran's Administration income of \$130 per month and his retirement income of \$874. (Exhibit D-2)
- 3) The Appellant [REDACTED] began receiving Social Security Disability benefits in May 2017 in the amount of \$1275 per month.
- 4) The Respondent received notification of Appellant [REDACTED] Social Security income on June 23, 2017.
- 5) The Appellants' combined gross income was over the 133% Federal Poverty Limit (FPL) of \$1,800 per month for Adult Medicaid eligibility for an Assistance Group (AG) of 2.
- 6) On June 27, 2017, notification was sent to the Appellants that their Adult Medicaid benefits were being terminated as of August 1, 2017. (Exhibit D-3)

APPLICABLE POLICY

WV IMM §10.8.F, explains that Modified Adjusted Gross Income (MAGI) Medicaid eligibility requires that the applicant's household income be at or below the applicable modified adjusted gross income standard for the MAGI coverage groups. The adjusted gross income is then compared to 133% of the Federal Poverty Level (FPL) for the appropriate AG size to determine eligibility for MAGI Medicaid.

IMM, Chapter 10, Appendix A lists 133% FPL for an AG of two (2) is \$1800.

Generally, in situations involving adverse actions, a client must receive advance notice. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which the benefits are affected. The date on the notice must be the date it is mailed. The 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed. (IMM, §6.3.D)

IMM §6.3.D.2.b(2), *When Advance Notice Period Expires the First of the Following Month or Later*, states if the 13-day advance notice period does not expire until the first day of the following month or later, the change is not effective until the month following the end of the 13-day advance notice period.

DISCUSSION

The Appellant [REDACTED] began receiving Social Security Retirement benefits sometime in May 2016 in the amount of \$1,275. On June 23, 2017, the Respondent received notice of this additional income which, combined with her husband's income, made their AG over 133% FPL

for Adult Medicaid benefit eligibility. On June 27, 2017, a notice of closure was sent to the Appellants stating that their Adult Medicaid benefits would end July 31, 2017.

The Appellants do not dispute the amount of income used to determine the closure of their Adult Medicaid benefits. The Appellants are concerned because they obtained private medical insurance coverage which began on July 1, 2017 believing that their Medicaid benefits were ending on July 1, 2017. They contend that they acted upon the assertions made by the Respondent's eligibility worker that their Medicaid coverage would end July 1, 2017. Because the Appellants received insurance coverage benefits from WV Medicaid and private insurance in July, they were concerned they would be ineligible for any federal income tax credits for the month of July.

The Respondent acted promptly upon discovery of the additional income in the Appellant's AG and sent proper notice of closure on June 27, 2017. Because policy requires that if the 13-day advance notice period does not expire until the first day of the following month or later, the change is not effective until the month following the end of the 13-day advance notice period. Therefore, the Respondent correctly closed the Appellants' Adult Medicaid benefits as of August 1, 2017.

CONCLUSIONS OF LAW

1. The Respondent received notification on June 23, 2017 of Appellants' AG receiving an additional \$1275 per month gross income.
2. The Appellants' gross income was over 133% FPL for an AG of 2 for Adult Medicaid eligibility.
3. On June 27, 2017, the Respondents sent notice of Adult Medicaid benefit closure as of August 1, 2017.
4. Per policy, if the 13-day advance notice period does not expire until the first day of the following month or later, the change is not effective until the month following the end of the 13-day advance notice period.
5. The Respondent correctly closed the Appellants' Adult Medicaid benefits as of August 1, 2017.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's closure of Adult Medicaid benefits on August 1, 2017.

ENTERED this 11th day of January 2018.

Lori Woodward, State Hearing Officer