



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

Jim Justice
Governor

BOARD OF REVIEW
Raleigh District DHHR
407 Neville Street
Beckley, WV 25801

Bill J. Crouch
Cabinet Secretary

January 9, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2845

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 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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Leslie Bonds, [REDACTED] County DHHR

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

████████████████████,

Appellant,

v.

Action Number: 17-BOR-2845

**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 3, 2018, on an appeal filed November 17, 2017.

The matter before the Hearing Officer arises from the decision by the Respondent to deny Qualified Medicare Beneficiary (QMB) benefits for September 2017 and October 2017.

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

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Hearing Request received November 17, 2017
- D-3 Verification Checklist dated April 3, 2017
- D-4 Employer Statement from ██████████
- D-5 Paystubs from ██████████ dated July 7 and July 14, 2017
- D-6 Notice of QMB Termination dated July 27, 2017
- D-7 Notice of Specified Low Income Beneficiary (SLIMB) Approval dated July 27, 2017
- D-8 Paystubs from ██████████ dated September 1, September 8, September 15, September 22, and September 29, 2017
- D-9 Notice of QMB Approval dated October 16, 2017

- D-10 Paystubs from [REDACTED] dated August 4, August 11, August 18 and September 1, 2017
- D-11 West Virginia Income Maintenance Manual §23.12
- D-12 West Virginia Income Maintenance Manual §23.12.2
- D-13 West Virginia Income Maintenance Manual §1.16.6
- D-14 Department's Summary

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 QMB benefits.
- 2) The Appellant reported a change of employment for her husband in July 2017, and submitted paystubs dated July 7 and July 14, 2017, to verify this income (Exhibit D-5).
- 3) The Respondent anticipated the Appellant's husband's gross monthly income as \$2,107 based on the July 14, 2017, paystub. The July 7, 2017 paystub was not considered as it was a partial pay period (Exhibit D-5).
- 4) The Respondent notified the Appellant by letter on July 27, 2017, that QMB benefits were closing effective August 31, 2017, due to excessive income (Exhibit D-6).
- 5) The Respondent notified the Appellant by letter dated July 27, 2017, that SLIMB benefits were approved effective September 1, 2017 (Exhibit D-7).
- 6) The Appellant submitted additional paystubs for her husband in October 2017 (Exhibits D-8 and D-10).
- 7) Based on the income provided, the Respondent approved QMB benefits for the Appellant effective November 1, 2017 (Exhibit D-9).
- 8) The Appellant is requesting QMB benefits be reinstated for September 2017 and October 2017.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §23.12 states the beginning date of QMB eligibility is the first day of the month following the month the application is approved. The usual three-month period for backdating eligibility does not apply to QMBs.

West Virginia Income Maintenance Manual §4.12.1 states the income must be at or below 100% of the Federal Poverty Level (FPL) to qualify for QMB benefits. Appendix A lists 100% FPL for a 2-person Assistance Group as \$1,354.

DISCUSSION

Policy stipulates that to be income eligible for QMB benefits, the total gross monthly income must be at or below 100% FPL, or \$1,354, for a 2-person Assistance Group.

The Appellant reported the onset of earned income in July 2017 for her husband that was excessive to continue receiving QMB benefits. SLIMB was approved for the Appellant effective September 1, 2017, when the QMB benefit was closed.

The Appellant contended that her husband's income fluctuates, and the paystubs used to determine his income in July 2017 was not an accurate reflection of what he typically earned. The Appellant submitted paystubs to the Respondent for the months of August 2017 and September 2017 to verify that he did not earn as much as originally anticipated and to be reevaluated for QMB benefits. Based on these paystubs, the Appellant's QMB was reopened effective November 1, 2017.

However, the Appellant wished to have the QMB benefit backdated to cover the months she was approved for SLIMB. A review of the paystubs the Appellant submitted indicates that the income was below 100% FPL during in the month of September, but the Appellant did not report this decrease in income until October.

Pursuant to policy, QMB benefits cannot be backdated and the beginning date of eligibility is the month after the application is approved, or in the Appellant's case, the month after the change was reported.

QMB coverage for September 2017 and October 2017 cannot be backdated for the Appellant, therefore the Respondent's decision to reinstate the benefit effective November 1, 2017 is affirmed.

CONCLUSIONS OF LAW

- 1) The income limit for QMB benefits is 100% FPL.
- 2) The Appellant reported the onset of income that exceeded this limit in July 2017, thereby closing QMB benefits effective August 31, 2017.
- 3) The Appellant reported a decrease in income in October 2017 and QMB benefits were reopened effective November 1, 2017.
- 4) Pursuant to policy, the beginning date of QMB eligibility is the first day of the month following the month the application is approved.

- 5) Whereas QMB benefits cannot be backdated, the Appellant is not eligible for coverage for September 2017 and October 2017.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's denial of Qualified Medicare Beneficiary benefits for the Appellant for September 2017 and October 2017.

ENTERED this 9th day of January 2018

Kristi Logan
State Hearing Officer