



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Bill J. Crouch  
Cabinet Secretary

Jolynn Marra  
Interim Inspector General

October 31, 2018



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 18-BOR-2502

Dear Mr. [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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Charla Owens, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 18-BOR-2502**

**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 October 24, 2018, on a request for appeal filed October 3, 2018.

The matter before the Hearing Officer arises from the September 13, 2018 decision by the Respondent to deny the Appellant's application for Adult Medicaid benefits.

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

**Department's Exhibits:**

- D-1 Notice of Decision dated September 13, 2018
- D-2 Paystubs for ██████████ from ██████████
- D-3 West Virginia Income Maintenance Manual Chapter 4, Appendix A
- D-4 West Virginia Income Maintenance Manual Chapter 4.7

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 applied for Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits on September 11, 2018.
- 2) The Appellant resides with his wife, ██████████, who is employed by ██████████.

- 3) [REDACTED] gross income for August 17, 2018 and August 31, 2018 was \$1,286.60 per pay (D-2).
- 4) As Ms. [REDACTED] is paid bi-weekly, the Respondent determined that her countable monthly income is \$2,766.19 (\$1,286.60 average bi-weekly pay multiplied by 2.15).
- 5) The income limit for a two-person Adult Medicaid Assistance Group is \$1,825 based on 33 percent of the Federal Poverty Level (FPL).
- 6) The Appellant's Medicaid application was denied based on excessive household income, and he was informed of the denial in a Notice of Decision dated September 13, 2018 (D-1).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 4.7 (D-4) states that for MAGI Medicaid, income of each member of the individual's household is counted. The applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage group (133 percent of the FPL for Adult Medicaid).

West Virginia Income Maintenance Manual Chapter 3.7.2 states that income of each member of the individual's MAGI household is counted. The income group is determined using the MAGI methodology established in Section 3.7.3.

West Virginia Income Maintenance Manual Chapter 3.7.3 states that the Needs Group for MAGI Medicaid is the number of individuals included in the MAGI household size based upon the MAGI rules for counting household members. To determine the MAGI household size, the following step-by-step methodology is used for each applicant.

For purposes of applying the MAGI methodology:

- Child means natural, adopted, or stepchild;
- Parent means natural, adopted, or stepparent;
- Sibling means natural, adopted, half, or stepsibling.

In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.

Chapter 4, Appendix A of the Manual (D-3) states that the maximum income limit for Adult Medicaid is \$1,825 (133 percent of the FPL) for a two-person Assistance Group.

## **DISCUSSION**

Policy states that for MAGI Medicaid, income of each member of the individual's household is counted. The applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage group (133 percent of the FPL for Adult Medicaid). In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.

The Appellant testified that he and his wife have been separated since 2013, and that he only moved back into her residence in September 2018 due to his illness. He indicated that his wife has allowed him to reside with her until he can "get back on his feet." The Appellant testified that his wife does not claim him on her income tax form and he has not filed income taxes because he has had no income for several years.

As the Appellant remains legally married and resides with his spouse, policy dictates that his wife's income must be considered for MAGI Medicaid purposes regardless of whether they file a joint tax return or whether one spouse is expected to be claimed as a tax dependent by the other spouse. Therefore, the Respondent acted correctly in denying Adult Medicaid benefits.

## **CONCLUSION OF LAW**

The Respondent acted correctly in denying the Appellant's MAGI Adult Medicaid application.

## **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Respondent's action to deny MAGI Adult Medicaid benefits.

**ENTERED this 31st Day of October 2018.**

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**Pamela L. Hinzman  
State Hearing Officer**