



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

December 6, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-3130

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, J.D.
Certified State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Jeffrey Everhart, BFA, WV DHHR

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

[REDACTED]

Appellant,

v.

ACTION NO.: 23-BOR-3130

**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 was convened on December 6, 2023, on an appeal filed October 5, 2023.

The matter before the Hearing Officer arises from the Respondent's September 27, 2023 decision to deny Adult Medicaid benefits.

At the hearing, the Respondent appeared by Jeffrey Everhart, Economic Service Worker. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Completed Medicaid/WV CHIP (MREV) review form date stamped received August 29, 2023
- D-3 Notice of denial dated September 27, 2023
- D-4 West Virginia Income Maintenance Manual (WV IMM), Chapter 4, §4.7.1; WV 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 Appellant and her husband were receiving Adult Medicaid (MAGI) benefits in an assistance group (AG) of three.
- 2) Beginning April 1, 2023, the Respondent began completing eligibility reviews for Medicaid which had been suspended during the COVID-19 Public Health Emergency (PHE).
- 3) On August 14, 2023, the Respondent issued a Medicaid/WV CHIP (MREV) review form for the Appellant to complete and return by September 1, 2023. (Exhibit D-2)
- 4) The Appellant returned the completed MREV form on August 29, 2023, attesting to a bi-weekly income for her husband, [REDACTED], of \$1978.85. (Exhibit D-2)
- 5) The Appellant's husband's bi-weekly income is converted to a monthly amount of \$4,254.53 (\$1,978.85 x 2.15).
- 6) The maximum monthly gross income limit for Adult Medicaid for an AG of three is \$2,756, or 133% Federal Poverty Level (FPL). (Exhibit D-4)
- 7) The Respondent issued a denial of Adult Medicaid benefits on September 27, 2023, due to being over the allowable income limit.

APPLICABLE POLICY

Families First Coronavirus Response Act (FFCRA) and Fiscal Year (FY) 2023 Omnibus Appropriations Bill permitted the Respondent to provide continuous coverage to Medicaid recipients during the declared public health emergency (PHE). The Medicaid continuous enrollment ended on April 1, 2023.

WV IMM, Chapter 23, §23.10.4, ADULT GROUP, explains in part:

The income limit is 133% FPL (Federal Poverty Level). As a result of the ACA (Affordable Care Act), the Adult Group was created effective January 1, 2014. Eligibility for this group is determined using Modified Adjusted Gross Income (MAGI) methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who meet the following requirements:

- They are age 19 or older and under age 65;
- They are not eligible for another categorically mandatory Medicaid coverage group:
 - o SSI

- o Deemed SSI
- o Parents/Caretaker Relatives
- o Pregnant Women
- o Children Under Age 19
- o Former Foster Children
- They are not entitled to or enrolled in Medicare Part A or B; and
- The income eligibility requirements described in Chapter 4 are met.

WV IMM, Chapter 3, §3.7.2, THE MAGI HOUSEHOLD INCOME GROUP (IG):

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.

EXCEPTION: Income of children, or other tax dependents, who are not expected to be required to file an income tax return is not counted, whether or not the individual actually files a tax return.

NOTE: A reasonable determination as to whether an individual will be required to file a tax return can be made based on the individual's current income for the applicable budget period. Such a determination would be based on information available at the time of application or renewal. Information regarding "Who Must File" a tax return can be found in Appendix G of Chapter 4.

WV IMM, Chapter 3, §3.7.3 THE MAGI HOUSEHOLD NEEDS GROUP (NG), in relevant part:

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.

WV IMM, Chapter 4, §4.7.3, *MAGI-BASED INCOME DISREGARD*, states:

The only allowable income disregard is an amount equivalent to five percentage points of 100% of the Federal Poverty Level (FPL) for the applicable MAGI household size. The 5% FPL disregard is not applied to every MAGI eligibility determination and should not be used to determine the MAGI coverage group for which an individual may be eligible. The 5% FPL disregard will be applied to the highest MAGI income limit for which an individual may be determined eligible.

WV IMM, Chapter 4, §4.7.4, *Determining Eligibility*:

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 group (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 (133% FPL), no disregard is necessary, and no further steps are required.
- Step 3:** If the result from Step 2 is greater than the appropriate limit (133% FPL), 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.

WV IMM, Chapter 4, Appendix A, Income Limits

133% of the FPL for a three-person AG: \$2,756

DISCUSSION

Pursuant to the COVID-19 PHE-related procedures, Medicaid recipients received continuous coverage without consideration of all routine eligibility criteria. After April 1, 2023, the Respondent was permitted to resume considering all eligibility criteria when determining Medicaid eligibility.

The Appellant and her husband had been receiving Adult Medicaid coverage under the PHE procedures. On August 14, 2023, the Respondent issued a Medicaid/WV CHIP (MREV) review form for the Appellant to complete and return by September 1, 2023. The Appellant returned the completed MREV form attesting to her husband's bi-weekly income of \$1,978.85.

On September 27, 2023, the Respondent sent notification that the AG was over the income limit for Medicaid eligibility. When the Respondent converted the AG's stated income to a monthly amount, as required by policy, it was determined that the AG of 3 was over the allowable income limit for MAGI Medicaid ($\$1,978.85 \times 2.15 = \$4,254.53$). To determine MAGI Medicaid eligibility, the gross monthly income is converted to a percentage of the FPL. This is done by dividing the current monthly gross income of \$4,254.53 by 100% of the FPL for the household size of 3, which is \$2,756, which is 154% of the FPL. Because the FPL for MAGI Medicaid is 133% of the FPL, the 5% disregard would not bring the Appellant's AG below 133% FPL. The Respondent correctly calculated the income in determining the Appellant's ineligibility for MAGI Medicaid.

The Appellant stated that she had been receiving Medicaid since 2014 and cannot understand why she is no longer eligible. The Department's representative explained that because of the PHE, all individuals receiving Medicaid when the PHE was declared, continued to do so regardless of eligibility until April 1, 2023 when the PHE was lifted. After the PHE was lifted, the Respondent resumed Medicaid redeterminations. Although the Appellant stated she does not receive any income, policy requires that the household income of the AG be included in calculating MAGI Medicaid eligibility. The Appellant's spouse's income is included in the determination of her MAGI Medicaid eligibility.

The Appellant averred that she needed Medicaid coverage due to her health issues and that she had applied for Social Security disability. The Appellant has not been determined to be disabled to date. The Respondent's representative testified that the Appellant was assessed for eligibility for other Medicaid programs, but at this time did not qualify for them.

Policy sets the maximum gross monthly income limit for Adult Medicaid for a three-person assistance group at \$2,756. Because the Respondent correctly calculated the Appellant's AG to

be over the allowable limit for Adult Medicaid eligibility, the Respondent's decision to close the AG's Adult Medicaid benefits is affirmed.

It is noted that although the Appellant returned the review form in a timely manner, the Respondent's computer system sent a notification of a denial of Adult Medicaid benefit application on September 27, 2023, instead of a Medicaid closure notice. Although the September 27, 2023 notice incorrectly stated it was a denial of a Medicaid application, the denial effective date of November 2023 satisfies adverse action notice requirements. Furthermore, because of the timely filing of the hearing request, both the Appellant's and her husband's Medicaid benefits were reopened pending the outcome of this hearing.

CONCLUSIONS OF LAW

- 1) The income limit for a three-person AG for Adult Medicaid benefits is \$2,756.
- 2) The Appellant's gross monthly income is \$4,254.53.
- 3) The Appellant's AG income is over the allowable limit for Adult Medicaid eligibility.
- 4) The Respondent correctly determined that the Appellant was over the income limit for Adult Medicaid coverage.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to close the Appellant's and her husband's Adult Medicaid benefits.

ENTERED this 6th day of December 2023.

Lori Woodward, Certified State Hearing Officer