



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

**Bill J. Crouch
Cabinet Secretary**

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

**Jolynn Marra
Interim Inspector General**

January 9, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.:18-BOR-2835

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: Miranda Myers, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2835

**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 9, 2019, with an appeal filed on November 29, 2018.

The matter before the Hearing Officer arises from the October 31, 2018, decision by the Respondent to terminate the Appellant's Aged and Disabled Waiver Medicaid benefits.

At the hearing, the Respondent appeared by Miranda Myers, Economic Service Worker. The Appellant appeared by her daughter, ██████████. Appearing as a witness for the Appellant was ██████████. 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 29, 2018
- D-3 Notice of Termination dated October 31, 2018
- D-4 West Virginia Income Maintenance Manual §5.4
- D-5 West Virginia Income Maintenance Manual §24.49
- D-6 West Virginia Income Maintenance Manual §23.11.5.A
- D-7 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 Aged and Disabled Waiver Medicaid.
- 2) The Appellant submitted a Medicaid review form on September 28, 2018, reporting that her assets consisted of homestead property, a burial plot, a checking account and two (2) life insurance policies.
- 3) The Respondent verified that the Appellant's life insurance policies, each with a face value of \$2,000, have cash surrender values of \$1,305.34 and \$1,130 respectively.
- 4) The Respondent issued a Notice of Termination to the Appellant on October 31, 2018, advising that her Aged and Disabled Waiver Medicaid would close effective November 1, 2018 due to excessive assets (Exhibit D-3).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §24.31 states that the asset limit for Aged and Disabled Waiver Medicaid is the same as the asset limit for SSI-Related Medicaid.

West Virginia Income Maintenance Manual §5.4 lists the maximum allowable assets for SSI-Related Medicaid groups as \$2,000 for an assistance group (AG) of one (1).

West Virginia Income Maintenance Manual §5.5.27 states if the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset for SSI-Related Medicaid groups. If the face value of all life insurance policies for an individual is in excess of \$1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

DISCUSSION

Policy stipulates that the maximum amount of assets for Aged and Disabled Waiver Medicaid for a one-person assistance group is \$2,000, Cash surrender values of life insurance policies are countable assets for Aged and Disabled Waiver Medicaid.

The Appellant has two life insurance policies with cash surrender values that total \$2,435.34,

which exceeds the allowable asset limit of \$2,000. The Respondent terminated the Appellant's Aged and Disabled Waiver Medicaid effective November 1, 2018 due to excessive assets.

The Appellant's representative did not dispute the amount of the cash surrender values of the policies, but contended this asset should not count against Medicaid eligibility.

The Board of Review does not have the authority to change policy or allow exceptions to policy. The Appellant's total countable assets exceed the limit allowed by policy, therefore the Appellant no longer meets the financial eligibility criteria to continue receiving Aged and Disabled Waiver Medicaid.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, the asset limit for Aged and Disabled Waiver Medicaid is \$2,000.
- 2) The Appellant's countable assets exceed the \$2,000 asset limit.
- 3) The Respondent correctly terminated the Appellant's Aged and Disabled Waiver Medicaid due to excessive assets.

DECISION

It is the decision of the State Hearing Officer to uphold the decision of the Respondent to terminate the Appellant's Aged and Disabled Waiver Medicaid due to excessive assets.

ENTERED this 9th day of January 2019.

**Kristi Logan
State Hearing Officer**