



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

Earl Ray Tomblin
Governor

BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

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March 9, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3850

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Tina Marcum, WV DHHR, [REDACTED] Office

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

██████████,

Claimant,

v.

ACTION NO.: 14-BOR-3850

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on February 26, 2015, on an appeal filed December 11, 2014.

The matter before the Hearing Officer arises from the Respondent's termination of Claimant's eligibility for Modified Adjusted Gross Income (MAGI) Medicaid.

At the hearing, the Respondent appeared by Representative Tina Marcum of the WV DHHR, ██████████ office. The Claimant appeared *pro se*. Appearing as a witness for the Claimant was her husband ██████████. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Department hearing summary
- D-2 Mail-In review form, dated November 17, 2014
- D-3 Letter from Department to Claimant, dated December 9, 2014
- D-4 Letter from Department to Claimant, dated December 12, 2014
- D-5 InROADS application for Modified Adjusted Gross Income (MAGI) Medicaid, dated January 30, 2014
- D-6 WV DHHR Income Maintenance Manual (IMM), Chapter 10, §10.3
- D-7 WV DHHR IMM, Chapter 10, §10.6
- D-8 WV DHHR IMM, Chapter 10, §10.8
- D-9 WV DHHR IMM, Chapter 16, §16.5

Claimant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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) Claimant applied for and was approved for Modified Adjusted Gross Income (MAGI) Medicaid in January 2014. On the January 2014 application form (Exhibit D-5), the Claimant reported that there were two persons in her household, herself and her husband. She reported her household income was \$1,420 per month in Social Security benefits and \$194 per month from a United Mine Workers of America (UMWA) pension. She reported an income deduction of \$250 per month in alimony.
- 2) On November 17, 2014, the Department sent to the Claimant a letter (Exhibit D-2) informing her that she had to participate in a benefit review for ongoing Medicaid coverage. The November 17, 2014, letter included a mail-in review form to be completed and returned to her county DHHR office by December 1, 2014. She completed the form, reporting no income changes, and returned it to the [REDACTED] DHHR office on November 24, 2014.
- 3) A worker at the [REDACTED] DHHR's Economic Service unit processed the application. In verifying the Claimant's reported household income, the worker consulted SOLQ, an on-line information service from the Social Security Administration available to WV DHHR eligibility workers. According to SOLQ, the Claimant's husband actually received \$1878 per month in Social Security benefits, in addition to the \$194 per month UMWA pension. The total household income was \$2072 per month.
- 4) On December 9, 2014, the Department sent to the Claimant a letter (Exhibit D-3) informing her that her MAGI Medicaid coverage would stop because her household income was above the income guidelines for this program of coverage.
- 5) The Claimant's husband stated that they did not misrepresent their income on the January 2014 application or the November 2014 review. The Department's representative responded that the Claimant reported her household's net income, after deductions for child support, alimony and a Medicare premium. The Department's representative added that even after accounting for the \$250 per month alimony payment, an allowable MAGI Medicaid deduction, the household's income was \$1822, still excessive for the program. The Department's representative added that the reason the Claimant received MAGI in January 2014 was that the Department approved her benefits in error.

- 6) The Claimant testified that she received the coverage in January 2014, and she felt that the coverage should continue. She stated that she had numerous many health problems, and she needed the MAGI Medicaid coverage in order to receive the treatment she needed.

APPLICABLE POLICY

WV DHHR's Income Maintenance Manual (IMM) Chapter 10, §10.3, Chart 2, states that Social Security benefits and pensions are countable income sources for MAGI Medicaid. WV DHHR IMM Chapter 10, §10.8.D states that paid alimony may be deducted from a household's gross income for MAGI. WV DHHR IMM Chapter 16, §16.5.F, states that the income limit for MAGI Medicaid is 133% of the Federal Poverty Level (FPL). WV DHHR IMM Chapter 10, Appendix A states that 133% of the FPL for a two-person household is \$1744 per month.

DISCUSSION

The Department acted correctly to discontinue the Claimant's eligibility for Modified Adjusted Gross Income (MAGI) Medicaid. Policy is clear that the income level for MAGI is \$1744 per month, while the income for the Claimant's household was \$2072 per month. Even accounting for a \$250 per month alimony payment, the household's income still is excessive for MAGI.

CONCLUSION OF LAW

The Claimant's household income, \$2072 per month, is excessive for MAGI Medicaid. If this amount were reduced by \$250 per month to account for an alimony payment, the household income of \$1822 still is excessive for MAGI Medicaid. The Department acted correctly to discontinue the Claimant's eligibility for Modified Adjusted Gross Income (MAGI) Medicaid, according to WV DHHR IMM §16.5.F and Chapter 10, Appendix A.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to discontinue the Claimant's eligibility for Modified Adjusted Gross Income (MAGI) Medicaid.

ENTERED this 9th Day of March 2015.

Stephen M. Baisden
State Hearing Officer