



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661**

**Earl Ray Tomblin
Governor**

**Karen L. Bowling
Cabinet Secretary**

October 14, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NOS.: 16-BOR-2147 and 16-BOR-2148

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,

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

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

cc: Janee Scott, WV DHHR, Mingo County Office

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

██████████,

Appellant,

v.

**ACTION NOs.: 16-BOR-2147 (LTC)
and 16-BOR-2148 (QMB)**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on October 6, 2016, on an appeal filed June 22, 2016.

The matter before the Hearing Officer arises from the June 13, 2016, decision by the Respondent to discontinue the Appellant's eligibility for Qualified Medicare Beneficiary (QMB) Medicaid and the Home and Community-Based Waiver (hereinafter HCB Waiver) program.

At the hearing, the Respondent appeared by Janee Scott, Economic Service Supervisor at the WV DHHR, ██████████ County Office. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, the Appellant's case manager and ██████████ the Appellant's homemaker, both from ██████████. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Medicaid case recordings, dated June 9, 2011
- D-3 Medicaid case recordings, dated June 9 through September 13, 2011
- D-4 Combined Application Form (CAF) and Rights and Responsibilities Form, signed and dated by the Appellant on June 9, 2011
- D-5 Medicaid case recordings, dated April 22 through June 24, 2014
- D-6 Medicaid review form, signed and dated by Appellant on April 21, 2014
- D-7 Medicaid case recordings, dated January 13 through June 10, 2016
- D-8 Medicaid case recordings, dated June 10 through 22, 2016
- D-9 Medicaid review form, signed and dated by Appellant on May 18, 2016
- D-10 Letter from Department to Appellant, dated June 13, 2016

- D-11 Assets Determination Summary screen print from Appellant's RAPIDS case record
D-12 West Virginia Income Maintenance Manual (WV IMM) Chapter 11, §11.3

Appellant's Exhibits:

- A-1 Monthly bill from Appalachian Power, dated August 17, 2016
A-2 Monthly bill from Suddenlink, for service from August 14 to September 13, 2016
A-3 Monthly bill from Bluegrass Oxygen Inc., with payment due date of August 20, 2016
A-4 Written statement from [REDACTED], dated August 19, 2016
A-5 Written statement from [REDACTED], dated August 23, 2016
A-6 Pre-written statement, signed and dated by [REDACTED] on August 23, 2016
A-7 Pre-written statement, signed and dated by [REDACTED] on August 23, 2016
A-8 Pre-written statement, signed and dated by [REDACTED] on August 23, 2016

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) On June 10, 2016, the Appellant called the WV DHHR's Change Center to report that she had married (Exhibit D-9). Also on June 10, 2016, an Economic Service Worker at the WV DHHR, [REDACTED] County office, called the Appellant as part of the processing of the Appellant's QMB Medicaid review (Exhibit D-9).
- 2) The Appellant informed the worker that she had moved out of her mobile home. The worker informed the Appellant that the value of her home and property had become assets at that point because she no longer lived there. The Appellant replied she would "sign over" the property and mobile home to her son, who lived there. The worker informed the Appellant that this constituted a non-permissible transfer of assets.
- 3) The mobile home was valued at \$47,000. The Appellant owns it jointly with one of her children, so the Department counted one half, or \$23,500, as an asset. The property was valued at \$16,000. The property was an heirship and was owned jointly by the Appellant and her four sons. The value of the property asset was \$16,000 divided by five, or \$3,200. The total amount of assets counted in determining the Appellant eligibility for QMB Medicaid and HCB Waiver was \$23,500 + \$3,200, or \$26,700. The Appellant reported a checking account with \$10.30 in it, so the total assets were \$26,710.30.
- 4) \$26,710.30 is above the asset level for both QMB Medicaid and HCB Waiver. The Department discontinued the Appellant's participation in both programs on June 13, 2016 (Exhibit D-10).
- 5) The Appellant requested a fair hearing to protest the closure of her eligibility for QMB Medicaid and HCB Waiver.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WV IMM) Chapter 11, §11.3, states that the asset level for SSI-Related Medicaid, AFDC-Related Medicaid and other Medicaid programs including HCB Waiver is \$2,000 for a single-person assistance group. §11.3 states that the asset level for Qualified Medicare Beneficiary Medicaid is \$7,280.

DISCUSSION

The Department discontinued the Appellant's eligibility for QMB Medicaid and HCB Waiver due to excessive assets. According to WV IMM, Chapter §11, 11.3, the asset limit for QMB is \$7,280 and for HCB Waiver is \$2,000. The Department counted \$26,710.30 as the Appellant's assets.

The Department's representative testified that the Appellant had applied for Medicaid in 2011. At that time, she listed the value of her mobile home as \$47,000 and the value of the heirship property it sat upon as \$16,000. The Department's representative stated the Appellant did not verify the value of these assets in 2011 and the Department denied her application. The stated values she reported at that time remained in her case record and were used to determine her eligibility for QMB Medicaid and HCB Waiver in June 2016.

The Appellant testified that she lived in the mobile home with a listed value of \$47,000, and that this mobile home is located on a piece of property she owns, separate from the heirship property valued at \$16,000. She stated that she and one of her sons jointly own a mobile home located on the heirship property, but she "signed over" the mobile home to him.

The Appellant provided copies of bills to indicate she lived at [REDACTED] (Exhibits A-1 and A-3) and written statements indicating she lives at [REDACTED] (Exhibits A-5, A-6, A-7 and A-8). There is nothing on these bills or statements that indicate which of these two addresses is the address for her son and which address is hers. The Appellant testified that her address is [REDACTED]

The Appellant did not provide verification, either to the Department for her QMB Medicaid review or for the fair hearing, about the value of the mobile home she and her son own jointly. The Department, acting on the best information available, acted correctly to discontinue the Appellant's eligibility for for QMB Medicaid and HCB Waiver on June 13, 2016.

CONCLUSION OF LAW

Acting on the best information available in June 2016, the Department determined the Appellant had \$26,710 in assets. This amount is above the asset level for QMB Medicaid and HCB Waiver, according to WV IMM Chapter 11, §11.3. The Department acted correctly to discontinue the Appellant's eligibility for these programs.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's discontinuation of the Appellant's eligibility for QMB Medicaid and HCB Waiver.

ENTERED this 14th Day of October 2016.

Stephen M. Baisden
State Hearing Officer