



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

December 8, 2016

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-2880

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Margaret Fain, [REDACTED] County DHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 16-BOR-2880**

**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 December 6, 2016, on an appeal filed October 19, 2016.

The matter before the Hearing Officer arises from the October 7, 2016 decision by the Respondent to terminate Adult Medicaid benefits.

At the hearing, the Respondent appeared by Margaret Fain, Economic Service Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Respondent'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 submitted an Adult Medicaid review form to the Respondent on September 21, 2016.

- 2) The Appellant reported receiving \$1,000 bi-weekly from her employment with [REDACTED]  
[REDACTED] The Appellant's income was calculated as \$2,150 monthly.
- 3) The Respondent notified the Appellant that her Adult Medicaid benefits would be terminated effective November 1, 2016, due to excessive income.
- 4) The income limit for Adult Medicaid for a one-person Assistance Group is \$1,317.

### **APPLICABLE POLICY**

The Affordable Care Act required a new methodology for determining how income is counted and how household composition and size are determined when establishing financial eligibility for all three Insurance Affordability Programs (IAP) - Medicaid, CHIP and Advance Premium Tax Credits (APTC) through the Exchange. Modified Adjusted Gross Income (MAGI) methodologies *apply* to individuals whose eligibility for Medicaid is determined for coverage effective on or after January 1, 2014.

West Virginia Income Maintenance Manual §§10.8B and 10.C states that to determine the MAGI household size the following step-by-step methodology is used for each applicant

This methodology must be applied to each applicant in the MAGI household separately:

**STEP 1:** IS THE APPLICANT A TAX FILER?

**IF YES:** The applicant's MAGI household includes themselves, each individual they expect to claim as a tax dependent, and their spouse if residing with the tax filer. This is known as the tax filer rule.

MAGI household income is the sum of the MAGI-based income of every individual included in the individual's MAGI household. The MAGI household is determined using the MAGI methodology established above. Income of each member of the individual's MAGI household is counted.

West Virginia Income Maintenance Manual §10.6B states that eligibility is determined on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the Assistance Group (AG). For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive.

Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows: Bi-weekly amount (every 2 weeks) x 2.15

The adjusted gross income is then compared to 133% of the Federal Poverty Level for the appropriate AG size to determine eligibility for MAGI Medicaid.

West Virginia Income Maintenance Manual Chapter 10 Appendix A lists 133% FPL for an AG of one as \$1,317.

## **DISCUSSION**

To determine eligibility for Adult Medicaid, the total gross monthly income of the Assistance Group must be less than 133% of the Federal Poverty Level. The income limit (133% FPL) for Adult Medicaid for a one-person Assistance Group is \$1,317.

The Appellant testified that she earned \$11.00 an hour and worked an average of 35-36 hours a week. However, the Appellant purported that she sometimes worked less hours, and worked only 57 hours the previous bi-weekly pay period.

Although the Appellant reported reduced work hours at times, she testified that on average she worked 35 hours a week, or 70 hours per bi-weekly pay period. Income that can be anticipated throughout the certification period is used in determining eligibility for Adult Medicaid benefits, and based on the Appellant's self-attestation of her hourly wages and average hours of work per week, the Appellant no longer meets the income guidelines to continue receiving Adult Medicaid benefits.

## **CONCLUSIONS OF LAW**

- 1) Pursuant to policy, the monthly income limit for Adult Medicaid for a one-person Assistance Group is \$1,317.
- 2) The Appellant earns \$11.00 per hour, averaging 70 each bi-weekly pay period.
- 3) The Appellant's income from employment is calculated as \$1,655 monthly.
- 4) The Appellant's monthly income exceeds the allowable limits to receive Adult Medicaid benefits.

## **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate the Appellant's Adult Medicaid benefits.

**ENTERED this 8<sup>th</sup> day of December 2016**

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**Kristi Logan**  
**State Hearing Officer**