



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

January 13, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
Action No.: 15-BOR-3412

Dear Mr. [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,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, Economic Service Worker

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

██████████,

Appellant,

v.

ACTION NO.: 15-BOR-3412

**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 January 13, 2016, on an appeal filed November 2, 2015.

The matter before the Hearing Officer arises from the Respondent's decision to terminate the Appellant's Modified Adjusted Gross Income - Adult Medicaid (hereinafter MAGI Medicaid), also known as MGAD Medicaid.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Appellant appeared *pro se*. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments computer screen print, dated October 23, 2015 through October 29, 2015
- D-2 MAGI Medicaid Income Budget computer screen print, determination date October 29, 2015
- D-3 Correspondence from DHHR ██████████ County to Appellant dated October 30, 2015
- D-4 Income Chart based on information contained in West Virginia Income Maintenance Manual (IMM), Chapter 10, Appendix A

Appellant'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) The Appellant was a recipient of MAGI Adult Medicaid for a one-person household.
- 2) On October 23, 2015, the Appellant completed a redetermination for Supplemental Nutrition Assistance Program (SNAP) benefits and reported an increase in household income (unemployment income). (Exhibit D-1)
- 3) The Appellant's SNAP and MAGI Adult Medicaid benefits were pended for verification of the Appellant's unemployment income. (Exhibit D-1)
- 4) On October 29, 2015, the Respondent received verification that the Appellant receives \$573 per week in unemployment income, a total of \$2463.90 per month. (Exhibit D-1)
- 5) Child support in the amount of \$228 per week is deducted from the Appellant's gross unemployment income. (Exhibit D-1)
- 6) On October 30, 2015, the Appellant was mailed notice that his MAGI Adult Medicaid was terminated due to excessive income. (Exhibit D-3)
- 7) The income limit for MAGI Adult Medicaid is 133% of the Federal Poverty Level (FPL), which equates to \$1305 for a one-person household. (Exhibit D-4)
- 8) The Appellant contended that he is unable to afford to pay for his medical care and insurance and believes that his net income should be used in determining eligibility for Adult Medicaid and not his gross income.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §2.2.B.2.b requires, regardless of reporting requirements, the worker to act on all changes reported during an application or redetermination for any program of assistance, including SNAP benefits, which is entered in RAPIDS and includes an AG member.

West Virginia Income Maintenance Manual Chapter 10, Appendix A, states that 133% of the FPL for a one-person household is \$1305 per month.

West Virginia Income Maintenance Manual §10.8.D, provides the worker with instructions in calculating the Modified Adjusted Gross Income (MAGI) for MAGI Adult Medicaid. When

calculating the Adjusted Gross Income (AGI), the worker must add all of the individual's income from any of the income sources listed in Section 10.3, Chart 2. Unemployment compensation is included on the list. The following expenses can be deducted from AGI: educator expenses, certain business expenses for reservists, performing artists and fee-basis government officials, health savings account, moving expenses, certain self-employment expenses, penalties for early withdrawal of savings, alimony paid, IRA deductions, student loan interest deduction and tuition and fees.

West Virginia Income Maintenance Manual §10.8.E, indicates that the only allowable income disregard is an amount equivalent to five percentage points of the FPL for the applicable MAGI household size.

West Virginia Income Maintenance Manual §10.8.F, provides the worker with instructions determining eligibility for MAGI coverage groups as follows: (1) Determine gross monthly income; (2) Convert gross monthly income to a percentage of the FPL by dividing current monthly income by 100% FPL for the household size and convert to a percentage; (3) Apply the 5% FPL disregard by subtracting 5 percentage points from the converted gross monthly income to determine the household income if it affects the applicant's eligibility for MAGI Medicaid; and (4) After the remaining 5% FPL income disregard has been applied, the remaining percent of the FPL is the final figure that will be compared against the applicable MAGI standard for the coverage group.

West Virginia Income Maintenance Manual §16.5.F, states that the income limit for MGAD Adult Medicaid is 133% of the Federal Poverty Level (FPL).

DISCUSSION

The Appellant did not contend that the Department erred in determining his monthly household income for Adult MAGI Medicaid.

The Department acted correctly to deny the Appellant's application for Adult MAGI Medicaid. While policy in §10.8.D, does permit a deduction for certain household expenses, child support is not included on the list of allowable deductions.

Policy is clear that the gross income limit for MAGI Medicaid is \$1305 per month for a one-person household. The Appellant's income was \$2463.90 per month.

CONCLUSION OF LAW

The Appellant's monthly household income of \$2463.90 per month is in excess of the income limit of \$1305 set forth by policy for MAGI Medicaid.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate the Appellant's Modified Adjusted Gross Income - Adult Medicaid.

ENTERED this 13th Day of January 2016.

Donna L. Toler
State Hearing Officer