



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

February 23, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3619

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: Beverly Ballengee, Greenbrier County DHHR

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

██████████
Appellant,

v.

Action Number: 15-BOR-3619

**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 February 23, 2016, on an appeal filed December 7, 2015.

The matter before the Hearing Officer arises from the November 25, 2015, decision by the Respondent to terminate the Appellant's Qualified Individual benefits.

At the hearing, the Respondent appeared by Beverly Ballengee, Family Support Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated November 25, 2015
- D-2 Hearing Request received December 7, 2015
- D-3 Hearing/Grievance Request Notification
- D-4 Scheduling Order
- D-5 West Virginia Income Maintenance Manual §§10.16, 10.22 and Appendix A
- D-6 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 Qualified Individual (QI-1) benefits.
- 2) The Department processed the Appellant's eligibility review form for QI-1 benefits on November 24, 2015.
- 3) The Appellant reported her monthly income as \$1,371 in disability benefits from the Social Security Administration.
- 4) The monthly income limit for a one-person Assistance Group (AG) for QI-1 benefits is \$1,325.
- 5) The Appellant was notified by a Notice of Decision (D-1) dated November 25, 2015, that her QI-1 benefits would be terminated due to excessive income.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §10.16B states that for the QI-1 coverage group, countable income is determined by subtracting any allowable disregards and deductions from the total non-excluded gross income. Countable income is determined as follows:

Step 1: Determine the total non-excluded gross unearned income and subtract the appropriate disregards. See Section 10.22.B.

Step 2: Determine the total non-excluded gross earned income.

Step 3: Add unearned income from Step 1 above.

Step 4: Subtract the amount of income diverted to a PASS account and the Death Benefit deduction.

The result is the total monthly countable income.

Step 5: Compare the amount in Step 4 to the QI-1 income level for the appropriate number of persons. If the amount is less than or equal to the QI-1 income level, the client is eligible.

Eligibility for this coverage groups is determined as follows:

QI-1 – Income is greater than 120% Federal Poverty Level (FPL), but less than or equal to 135% FPL.

West Virginia Income Maintenance Manual §10.22.B allows for a \$20 deduction from the total gross non-excluded income for the QI-1 coverage group.

West Virginia Income Maintenance Manual Chapter 10, Appendix A lists 120% FPL as \$1,178 and 135% FPL as \$1,325.

DISCUSSION

The Appellant did not dispute that her gross monthly income is \$1,371. However, the Appellant felt that the amount she spends each month for food and shelter and other expenses should be considered in determining eligibility for the program.

The Department correctly applied all the deductions allowed by policy to the Appellant's monthly gross non-excluded income. The result was a net income of \$1,351, which exceeds the allowable limit for the Appellant to continue receiving QI-1 benefits. There are no provisions in policy for deductions for food and shelter costs for this program.

CONCLUSIONS OF LAW

Whereas the Appellant's income is excessive to continue receiving Qualified Individual benefits, the Department correctly terminated the Appellant's participation in the program.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate the Appellant's Qualified Individual benefits due to excessive income.

ENTERED this 23rd day of February 2016

Kristi Logan
State Hearing Officer