



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

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

March 9, 2017



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1247

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,

Natasha Jemerison  
State Hearing Officer  
Member, State Board of Review

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

cc: Misty Fielder, Department Representative

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

██████████,

**Appellant,**

v.

**Action Number: 17-BOR-1247**

**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 March 9, 2017, on an appeal filed February 9, 2017.

The matter before the Hearing Officer arises from the July 7, 2016 decision by the Respondent to deny Qualified Individual (QIA) Medicare Premium Assistance.

At the hearing, the Respondent appeared by Misty Fielder. The Appellant was represented by his sister, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Decision, dated January 18, 2017
- D-2 West Virginia Income Maintenance Manual §16.6
- D-3 Notice of Decision, dated January 18, 2017
- D-4 West Virginia Income Maintenance Manual §10.0, Appendix A
- D-5 Data Exchange-SSA Benefit Details computer screen print, dated January 6, 2017
- D-6 West Virginia Income Maintenance Manual §10.3
- D-7 Workers' Compensation Commission Notice of Decision, dated June 30, 2004
- D-8 Medical Verification for Dependent Invalid, dated March 27, 2002

**Appellant's Exhibits:**

- A-1 Letter from Workers' Compensation Commission, dated February 22, 2017

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 January 18, 2017, the Appellant was notified that he was approved for Long-Term Care Medicaid for nursing home care. (D-3)
- 2) Pursuant to policy, individuals that are eligible for any full coverage Medicaid group are not eligible to receive Medicare Premium Assistance such as Qualified Individual (QIA). (D-2)
- 3) On January 18, 2017, the Appellant was notified that he was not eligible for Medicare Premium Assistance, because his income is more than the gross income limit for that type of assistance. (D-1)
- 4) The gross income limit for QIA is \$1,325. (D-4)
- 5) The Appellant receives Workers' Compensation payments from his late father's Workers' Compensation claim. (A-1)
- 6) The Appellant receives \$1,041 from Social Security and \$763.02 from Workers' Compensation. His total monthly gross income is \$1,804.02. (D-5 and D-7)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §16.6 explains an individual is eligible for Qualified Individual (QIA) coverage when all of the following conditions are met:

- The individual must be enrolled in Medicare, Part A.
- The individual must meet the income test detailed in Chapter 10.
- The individual must meet the asset test detailed in Chapter 11.
- The individual must not be eligible for any full coverage Medicaid group.

WV IMM §10 establishes that the income limit for QIA for one (1) person is 121-134% of the Federal Poverty Level (FPL), which is equal to \$1,178 to \$1,325.

WV IMM §10.3 lists income from Workers' Compensation as countable unearned income for the QIA Medicare Assistance Program.

## **DISCUSSION**

The Appellant was notified that he was not eligible for Medicare Premium Assistance, because he was over the income limit. The Appellant's representative requested a fair hearing on his behalf to contest the Department's decision.

Policy states that individuals who are eligible for any full coverage Medicaid group are not eligible to receive Medicare Premium Assistance such as QIA. Also, the monthly gross income cannot exceed \$1,325 to be eligible for QIA.

The Appellant's representative, [REDACTED], testified that the Appellant received Medicare Premium Assistance for several years. She stated the Department informed her that the income from Workers' Compensation was excluded, because the Appellant received those payments from his late father's Workers' Compensation claim. She stated since there were not any changes to the Appellant's income, he should still be eligible for assistance.

The Department's representative, Misty Fielder, testified that the Appellant's Medicaid type changed once he went to a nursing home in November 2016. She stated it is possible that the Workers' Compensation payments were excluded for the type of Medicaid the Appellant previously received, or the Department erred in excluding the Workers' Compensation payments. She testified that according to policy, the Workers' Compensation payments are required to be counted as unearned income for the Appellant's current Medicaid. She added that the Appellant was also ineligible for QIA, because he received full coverage Medicaid.

Based on the evidence and testimony provided, the Appellant is not eligible for QIA Medicare Premium Assistance. The Department took the correct action in issuing a denial on January 18, 2017.

## **CONCLUSION OF LAW**

Because the Appellant is over the gross income limit allowed by policy for QIA and is eligible for a full coverage Medicaid group, the Department was correct in its determination to deny QIA Medicare Premium Assistance.

## **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to determine the Appellant was not eligible for QIA Medicare Premium Assistance.

**ENTERED this 9<sup>th</sup> Day of March 2017.**

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**Natasha Jemerison  
State Hearing Officer**