



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

April 11, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1390

Dear Mrs. [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: Robert Meade, FSS

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

██████████,

**Appellant,**

**v.**

**Action Number: 17-BOR-1390**

**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 April 4, 2017, on an appeal filed March 2, 2017.

The matter before the Hearing Officer arises from the January 13, 2017 decision by the Respondent to terminate the Appellant's Medicaid benefits.

At the hearing, the Respondent appeared by Robert Meade, Family Support Specialist. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, her son in-law, and ██████████, her husband. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Decision, dated January 13, 2017
- D-2 West Virginia Income Maintenance Manual §§ 8.3 and 18.4
- D-3 Case Summary, Case Benefit Summary, Alien/Refugee Information computer screen prints, copy of Permanent Resident card, and E-mail from Senior Policy Specialist
- D-4 Case Comments computer screen prints, dated September 2015 through January 2017

**Appellant's Exhibits:**

- A-1 Physician statements
- A-2 Copy of Visa

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 Medicaid benefits from 2015 to 2016, because of her status as a refugee. (D-4)
- 2) On October 3, 2014, the Appellant became a lawfully permanent resident of the United States. (D-3)
- 3) On January 13, 2017, the Appellant was notified that she was not eligible for Medicaid benefits. (D-1)

**APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §10.22 explains that to be eligible to receive Medicaid benefits, the individual must be a resident of the United States as a citizen or in a qualifying alien status.

WV IMM §18.1 defines a lawfully permanent resident alien as an alien who has been lawfully afforded the privilege of residing permanently in the U.S.

WV IMM §18.4 indicates that an alien who is lawfully admitted to the United States on or after August 22, 1996, and has been a qualified alien for more than five (5) years is eligible for Medicaid.

**DISCUSSION**

On January 13, 2017, the Appellant was notified that she was not eligible for Medicaid benefits. The Appellant requested a fair hearing to contest the Department's decision.

Policy explains the eligibility criteria regarding citizenship, alien status, and refugees. It defines a lawfully permanent resident as an alien who has been lawfully afforded the privilege of residing permanently in the United States. Policy indicates that an alien who is lawfully admitted to the United States is not eligible for Medicaid until they have been a lawfully permanent resident for more than five (5) years.

The Appellant testified that she has been in the United States since December 1, 2011. From at least 2015 to 2016, the Appellant received Medicaid based on her refugee status, but on October 3, 2014, the Appellant became a lawfully permanent resident of the United States. It is unclear if the Department was aware of the Appellant's change of status when it occurred.

Although the Appellant has resided in the United States since 2011, she did not become a lawfully permanent resident until 2014. Because policy mandates that the Appellant must be a lawfully permanent resident of the United States for more than five years to be eligible for Medicaid, the Department was correct to deny Medicaid benefits for the Appellant.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to policy, an alien who is lawfully admitted to the United States on or after August 22, 1996, and has been a qualified alien for more than five (5) years is eligible for Medicaid.
- 2) Because the Appellant has been a lawfully permanent resident on the United States for fewer than five (5) years, she is not eligible for Medicaid.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's determination that the Appellant is not eligible for Medicaid benefits.

**ENTERED this 11<sup>th</sup> Day of April 2017.**

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**Natasha Jemerison  
State Hearing Officer**