



**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**

**Jim Justice
Governor**

**Bill J. Crouch
Cabinet Secretary**

August 2, 2017

[REDACTED]

RE: [REDACTED] v WV DHHR
BOR ACTION NO.: 17-BOR-2083

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,

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 No: 17-BOR-2083

**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 convened on August 1, 2017, on an appeal filed July 6, 2017.

The matter before the Hearing Officer arises from the July 3, 2017, decision by the Respondent to terminate Assistance Group (AG) member ██████████ Adult Medicaid benefits.

At the hearing, the Respondent appeared by Robert Meade, Family Support Specialist. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was his wife, ██████████. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Medical Review form, dated June 12, 2017 and signed June 15, 2017
- D-2 West Virginia Income Maintenance Manual Policy Chapter 10, Appendix A
- D-3 Case Summary, Case Benefit Summary, and Employment Income and Unearned income computer screen prints
- D-4 Notice of Decision, dated July 3, 2017

Appellant'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) On June 15, 2017, the Appellant's wife (Mrs. [REDACTED]) completed an eligibility review for Adult Medicaid benefits and reported a three-person Assistance Group (AG). (D-1)
- 2) The Appellant's household's gross monthly income was determined to be \$2,565.50 (D-3 and D-4)
- 3) The income limit for Adult Medicaid is based on 133% of the Federal Poverty Level, and the maximum allowable gross monthly income for a three-person Modified Adjusted Gross Income (MAGI) Adult Medicaid AG is \$2,264. (D-2)
- 4) On July 3, 2017, the Appellant was notified that Mrs. [REDACTED] Adult Medicaid benefits would close due to excessive income. (D-4)
- 5) The Appellant did not contest the income used by the Department.

APPLICABLE POLICY

WV IMM §9.3.B, reads that the income of each member of an individual's MAGI Medicaid household is counted when determining income eligibility for the program.

WV IMM §10.8.B, requires that the applicant's MAGI household includes the applicant, each individual he or she expects to claim as a tax dependent, and his or her spouse.

WV IMM §10, Appendix A, indicates that the gross income limit for a three-person MAGI Medicaid group (133% of the Federal Poverty Level) is \$2,264 per month.

WV IMM §10.8.F, explains how to determine MAGI eligibility:

The applicant's household income must be at or below the applicable modified adjusted gross income standard for the MAGI coverage groups.

Step 1: Determine the MAGI-based gross monthly income for each MAGI household income group.

Step 2: Convert the MAGI household's gross monthly income to a percentage of the Federal Poverty Level (FPL) by dividing current monthly income by 100% FPL for the household size. Convert the result to a percentage.

Step 3: Apply the 5% FPL disregard by subtracting five (5) percentage points from the converted monthly gross income to determine the household income if it affects the applicant's eligibility for MAGI Medicaid.

Step 4: After the 5% FPL income disregard has been applied, the remaining percent of FPL is the

final figure that will be compared against the applicable modified adjusted gross income standard for the MAGI coverage groups.

WV IMM §10.8.E, states the only allowable income disregard is an amount equivalent to five (5) percentage points of the Federal poverty level for the applicable MAGI household size.

DISCUSSION

The Appellant requested a fair hearing due to the termination of Adult Medicaid for his wife. To qualify for Adult Medicaid benefits, the gross monthly income must be below 133% of the Federal Poverty Level (FPL) for the size of the Assistance Group (AG). Policy states that the conversion of income limit for a three-person MAGI Adult Medicaid group at 133% of the FPL is \$2,264.00 per month.

The Appellant did not contest the income used by the Department, but he stated he did not understand why his wife, Mrs. [REDACTED] was not eligible for Adult Medicaid. The Appellant argued that the household had more income the previous year and Mrs. [REDACTED] received Adult Medicaid, so it did not make sense that she is not eligible since the household income had decreased.

The Department's representative, Robert Meade, stated that Mrs. [REDACTED] was eligible for Adult Medicaid last year because the household's AG size was larger. He stated the AG size has since decreased from a four-person to a three-person AG which lowered the eligibility income limit.

After hearing the Department's explanation, the Appellant stated he understood the reason for the termination of Adult Medicaid for Mrs. [REDACTED] and no he longer disputed the decision made by the Department. The evidence and testimony showed that the Department acted correctly in denying the Appellant's review for Adult Medicaid benefits.

CONCLUSION OF LAW

The Appellant's household's gross monthly income exceeds the maximum allowable gross monthly income limit of \$2,264.00 for a three-person Adult Medicaid AG. As a result, the Appellant wife is not eligible for Modified Adjusted Gross Income based Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to deny the Appellant's eligibility review for Adult Medicaid.

ENTERED this 2nd day of August 2017.

**Natasha Jemerison
State Hearing Officer**