



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Jim Justice
Governor**

**BOARD OF REVIEW
Raleigh District DHHR
407 Neville Street
Beckley, WV 25801**

**Bill J. Crouch
Cabinet Secretary**

September 5, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2104

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: Ashley Adams, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2104

**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 August 31, 2017, on an appeal filed July 12, 2017.

The matter before the Hearing Officer arises from the June 19, 2017, decision by the Respondent to terminate the Appellant's Adult Medicaid benefits.

At the hearing, the Respondent appeared by Ashley Adams, Economic Service Worker. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, her son. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request received July 12, 2017
- D-2 Hearing Request Notification
- D-3 Board of Review Scheduling Order dated August 10, 2017
- D-4 Notice of Decision dated June 19, 2017
- D-5 MAGI Medicaid Income Budget Screen Print
- D-6 Case Comments from June 2017 through July 2017
- D-7 West Virginia Income Maintenance Manual §10.8 and Chapter 10 Appendix A

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 Modified Adjusted Gross Income (MAGI) Medicaid benefits.
- 2) The Appellant's grandson reported the onset of earned income in June 2017.
- 3) The Respondent issued a Notice of Decision to the Appellant on June 19, 2017, advising that her income was excessive to continue receiving MAGI Medicaid (Exhibit D-4).
- 4) The Appellant receives Social Security in the amount of \$1,083 monthly and a pension in the amount of \$693 monthly.
- 5) The Appellant does not file a yearly federal income tax return.
- 6) The Appellant's grandson, age 18 years old, will file a tax return for 2017, but will not claim the Appellant as a dependent.

APPLICABLE POLICY

The Affordable Care Act required a new methodology for determining how income is counted and how household composition and size are determined when establishing financial eligibility for all three Insurance Affordability Programs (IAP) - Medicaid, CHIP and Advance Premium Tax Credits (APTC) through the Exchange. Modified Adjusted Gross Income (MAGI) methodologies apply to individuals whose eligibility for Medicaid is determined for coverage effective on or after January 1, 2014.

West Virginia Income Maintenance Manual §§10.8(B) and 10.8(C) states that to determine the MAGI household size the following step-by-step methodology is used for each applicant

This methodology must be applied to each applicant in the MAGI household separately:

- Step 1: Is the applicant a tax filer?
- Step 2: Is the applicant claimed as a tax dependent on someone else's taxes? If no: move to step 3.
- Step 3: If the applicant is not a tax filer, is not claimed as a tax dependent or meets one of the exceptions in step 2, then the Medicaid household consists of the applicant and the following individuals as long as they reside with the applicant:
- The applicant's spouse;
 - The applicant's children under age 19;
 - For applicants under 19, their parents, and their siblings who are also under 19.

This is known as the non-filer rule.

MAGI household income is the sum of the MAGI-based income of every individual included in the individual's MAGI household. The MAGI household is determined using the MAGI

methodology established above. Income of each member of the individual's MAGI household is counted.

The adjusted gross income is then compared to 133% of the Federal Poverty Level (FPL) for the appropriate household size to determine eligibility for MAGI Medicaid. The income must be below 133% FPL to qualify this benefit.

West Virginia Income Maintenance Manual Chapter 10 Appendix A lists 133% FPL for an AG is \$1,337.

DISCUSSION

To qualify for MAGI Medicaid benefits, the gross monthly income must be below 133% FPL for the size of the MAGI household.

The Appellant does not file a federal income tax return, therefore, the non-tax filer rule for determining the size of her MAGI Medicaid household must be followed. The Appellant is not married, and does not have any children under age 19 residing with her. The Appellant is the sole member of her MAGI Medicaid household.

The Appellant did not dispute that her gross monthly income is \$1,776. The Appellant's son testified that the Appellant has ongoing medical expenses for which she needs Medicaid, and does not qualify for Medicare until she is 65 years old.

The Appellant's gross monthly income exceeds the allowable limit to continue receiving MAGI Medicaid benefits. The Respondent was correct to terminate the Appellant's MAGI Medicaid.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, the gross monthly income limit for an individual to receive MAGI Medicaid benefits is \$1,337.
- 2) The Appellant's monthly income from Social Security and a pension is \$1,775.
- 3) The Appellant's income is excessive to receive MAGI Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision by the Respondent to terminate the Appellant's Modified Adjusted Gross Income Medicaid benefits.

ENTERED this 5th day of September 2017

**Kristi Logan
State Hearing Officer**