



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
Berkeley County DHHR  
PO Box 1247  
Martinsburg, WV 25402**

**Bill J. Crouch  
Cabinet Secretary**

**Jolynn Marra  
Interim Inspector General**

June 6, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 19-BOR-1633

Dear [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,

Lori Woodward  
State Hearing Officer  
Member, State Board of Review

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

cc: Amanda Simmons, BCF, [REDACTED] Co. DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 19-BOR-1633**

**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 June 4, 2019, on an appeal filed April 24, 2019.

The matter before the Hearing Officer arises from the April 16, 2019, decision by the Respondent to deny the Appellant's application for Medicaid benefits.

At the hearing, the Respondent appeared by Jimmy Phillips, Community Services Manager. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Social Security Benefits verification
- D-2 2018 Form 1099-R, ██████████
- D-3 ██████████ Statement of Earnings and Deductions, dated March 21, 2019
- D-4 ██████████ Statement, dated March 3, 2019
- D-5 ██████████ Statement of Policy Cost and Benefit Information, dated April 17, 2019
- D-6 ██████████ Life Insurance Program Table of Values, dated October 6, 2009
- D-7 ██████████ Statement of Policy Cost and Benefit Information, dated March 4, 2016
- D-8 Notice of denial, dated April 16, 2019

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 is a 69-year-old who applied for West Virginia Medicaid benefits in March 2019.
- 2) The Medicaid categories for which the Appellant was potentially eligible were Medicare Premium Subsidies and SSI-Related Medicaid.
- 3) The Appellant received Social Security benefits of \$1,039 per month. (Exhibit D-1)
- 4) The Appellant received a monthly pension from [REDACTED] of \$116.25. (Exhibit D-2)
- 5) The Appellant received earned income from [REDACTED]. (Exhibit D-3)
- 6) The Respondent calculated the Appellant's monthly earned income to be \$1,031.51 and monthly gross unearned income to be \$1,241.15. After allowable income deductions, the Appellant's countable net income was determined to be \$1,704.40 per month. (Exhibit D-8)
- 7) Based upon the Appellant's March 2019 bank statement, the Respondent calculated the Appellant's liquid assets as \$4,539.03. (Exhibit D-4)
- 8) The Appellant has three life insurance policies for a total cash value of \$980.87. (Exhibits D-5, D-6 and D-7)
- 9) The Appellant's total countable assets were calculated as \$5,519.90. (Exhibit D-8)
- 10) The Appellant was over the allowable asset limit for SSI-Related Medicaid of \$2,000 for an individual.
- 11) The Appellant was over the highest allowable income limit for the Premium Medicare Subsidy category of Qualified Individual (QI) of \$1,406 for an individual.
- 12) On April 16, 2019, the Respondent sent the Appellant notification that he was over the income and asset limits for Medicaid eligibility. (Exhibit D-8)

### **APPLICABLE POLICY**

WV IMM, Chapter 23, §23.9, explains, that all Medicaid coverage groups are assigned to one of two categories: Categorically Needy and Medically Needy. Categorically Needy Medicaid clients are families and children; aged, blind, or disabled individuals; and pregnant women who are eligible to receive Medicaid because they fall into a certain category and meet financial criteria.

The federal government mandates West Virginia to cover some Categorically Needy coverage groups; other coverage groups are optional. Medically Needy Medicaid clients are those who would be eligible for Categorically Needy benefits except that their income and/or assets are too high. Even though their resources are too high for Categorically Needy Medicaid eligibility, they have high medical needs and cannot afford to pay their medical bills. These individuals are allowed to “spenddown” their excess income to the Medically Needy Income Level (MNIL) by incurring medical expenses. The spenddown process is explained in Chapter 4.

WV IMM, Chapter 23, §23.11.3, *SSI-Related*, states that the income limit is MNIL subject to spenddown. The asset limit for an individual is \$2,000. Individuals who meet the SSI definition of aged, blind or disabled are eligible for Medicaid when all of the following conditions are met. Aged means 65 years or over.

- Countable income is under the Medically Needy Income Limit (MNIL). The income eligibility requirement is detailed in Chapter 4. However, no SSI-Related case is denied due only to excess income. Instead, the Worker must deduct incurred medical bills from countable income for the six-month Period of Consideration. This process is called spenddown and details of this procedure are in Chapter 4. Eligibility and the amount of the spenddown, if any, are determined using the MNIL. The level of the MNIL is determined by each state according to federal guidelines. By law, the MNIL cannot exceed 133% of the State's former AFDC cash assistance payment level, rounded to the nearest \$100, for a family of the same size.
- Countable assets do not exceed the limits described in Chapter 5.

The Medicare Premium Subsidies available under West Virginia Medicaid are Qualified Medicare Beneficiary (QMB), Specified Low Income Medicare Beneficiary (SLIMB) and Qualified Individual (QI). The asset limit for all three of these coverages for an individual is \$7,730. The income limit for QMB is 100% of the Federal Poverty Level (FPL), SLIMB income limit is 101 – 120% FPL, and QI is 121 –135% FPL. (WV IMM, Chapter 23, §23.12, et seq.)

## **DISCUSSION**

The Appellant is a 69-year-old who applied for Medicaid benefits in March 2019. The Appellant’s unearned income included a monthly pension from [REDACTED] of \$116.25 and Social Security Income of \$1,039. He also received \$1,031.51 per month of earned income from [REDACTED] which was calculated from his income verification. (It is noted that the Appellant’s testimony indicated a higher average monthly rate.) After applying the disregards, the Appellant’s countable net income was found to be \$1,704.40 per month, which was over the allowed income limit for Medicare Premium Subsidies.

In calculating the Appellant’s liquid assets, the Respondent used the March 2019 bank statement submitted by the Appellant. The bank statement indicated that the Appellant’s liquid assets were \$4,539.03. The Appellant also submitted verification of three separate life insurance policies with a combined cash value of \$980.87. The Respondent determined that the Appellant’s countable assets equaled \$5,519.90 which was over the allowed asset limit for SSI-Related Medicaid of \$2,000 for an individual. On April 16, 2019, the Respondent sent notice of the Appellant’s Medicaid application denial.

The Appellant testified that his earned income has decreased and may soon stop. Additionally, he stated that he has various medical issues and has expenses which he has difficulty meeting. Unfortunately, policy does not permit an applicant's expenses to be considered in Medicaid eligibility determinations. The Appellant did not contest the amounts the Respondent used in denying his March 2019 Medicaid application.

The Appellant was over the asset limit of \$2,000 to be eligible for SSI-Related Medicaid. Although the Appellant was asset-qualified for Medicare Premium Subsidy coverage, he was over the income limit of the lowest category of QI. Therefore, the Respondent correctly denied the Appellant's March 2019 Medicaid application.

### **CONCLUSIONS OF LAW**

- 1) The Appellant's countable net income was calculated to be \$1,704.40.
- 2) The Appellant's countable assets were calculated to be \$5,519.90.
- 3) To be eligible for SSI-Related Medicaid, an individual's countable assets must not exceed \$2,000.
- 4) The highest allowable income limit for Medicare Premium Subsidy is \$1,406.
- 5) Because the Appellant was over the asset limit for SSI-Related Medicaid benefits and over the allowable income limit for Medicare Premium Benefits, the Respondent correctly denied the Appellant's March 2019 Medicaid application.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's denial of the Appellant's Medicaid application.

**ENTERED this 6<sup>th</sup> day of June 2019.**

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**Lori Woodward, State Hearing Officer**