



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

Bill J. Crouch
Cabinet Secretary

**Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

Jolynn Marra
Interim Inspector
General

November 13, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-2363

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: David Griffin, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 19-BOR-2363

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on October 9, 2019 an appeal filed September 10, 2019.

The matter before the Hearing Officer arises from the August 23, 2019 determination by the Respondent to deny the Appellant's application for Medicaid benefits.

At the hearing, the Respondent appeared by David Griffin, ██████████ County DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR Medicaid Denial Notice, dated August 23, 2019
- D-2 DHHR Medicaid Application, submitted August 21, 2019
- D-3 MAGI Medicaid Income Budget
- D-4 West Virginia Income Maintenance Manual (WVIMM) Income Chart

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) On August 21, 2019, the Appellant submitted an application for Medicaid (Exhibit D-2).
- 2) The Appellant was 49 at the time she applied for Medicaid (Exhibit D-2).
- 3) The Appellant receives \$1,311 in earned income every two weeks (Exhibit D-2).
- 4) The Appellant is a member of a three-person Assistance Group (AG) (Exhibit D-3).
- 5) On the Appellant's application, she indicated she pays \$500 monthly in tuition (Exhibit D-2).
- 6) On August 23, 2019, the Respondent issued a notice advising the Appellant that her application for Medicaid was denied due to her income exceeding the Medicaid income eligibility limit (Exhibit D-1).
- 7) The Respondent considered the Appellant's earned income of \$2,818.65 when making the Appellant's Medicaid eligibility determination (Exhibit D-1).
- 8) The Respondent did not apply any deductions to the Appellant's income when determining her Medicaid eligibility.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 4.7 provides in part:

The Modified Adjusted Gross Income (MAGI) methodology is used to determine financial eligibility for the Medicaid Adult Group.

WVIMM § 4.7.2 Calculating MAGI provides in part:

MAGI-based income includes adjusted gross income. To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count The Worker uses the budgeting method established in Section 4.6.1.

WVIMM § 4.6.1.D How to Use Past and Future Income provides in part:

The Worker determines the amount of monthly income, based on the frequency of receipt and whether the amount is stable or fluctuates. Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Biweekly amount (every two weeks) x 2.15

WVIMM § 4.7.2.B Adjustments/Deductions provides in part:

After the income has been determined, the Worker must determine if any adjustments/deductions are applicable and subtract them from the income determined in Step 1. The Worker must incorporate allowable deductions –listed on IRS form 1040—in the calculation of MAGI based income.

For consistent, monthly deductions, deduct the monthly expense from current monthly income.

DISCUSSION

During the hearing, the Respondent testified that pursuant to the income listed on the Appellant's application, her income exceeded Medicaid income eligibility guidelines. During the hearing, the Appellant questioned whether the Respondent had considered any income deductions.

The Respondent had to prove by a preponderance of evidence that the Appellant's income exceeded Medicaid eligibility guidelines. The Respondent had to demonstrate that the Appellant was not entitled to any income deductions when determining her Medicaid eligibility. During the hearing, the Respondent testified that only the Appellant's gross income was considered for Medicaid eligibility.

The Appellant testified that she had children under age 18 living at home and had outstanding medical bills related to an overnight hospital stay. The Respondent testified that if the Appellant was disabled or over age 65 her outstanding medical bills may qualify for a spenddown, however, the Appellant testified that she was neither disabled or over age 65.

Policy provides that deductions considered on the IRS 1040 may be excluded from the Appellant's income when determining Medicaid eligibility. The Respondent's application form provides an opportunity for applicants to indicate "if you pay for certain things that can be deducted on a federal income tax return." On her application, the Appellant had indicated under Item #15 *Deductions* that she paid \$500 monthly for tuition. Although policy does not specifically include tuition deductions, no evidence was entered to demonstrate that the Respondent had considered the IRS 1040 when ruling out tuition payments as an allowable income deduction. As the application indicated that the tuition payment is a deductible expense on a federal tax return and policy provides that certain IRS 1040 deductions may be applied, the Respondent had a responsibility to demonstrate that all of the Appellant's reported information had been considered when the Respondent made a decision not to apply income deductions when determining the Appellant's Medicaid eligibility.

Application of a \$500 deduction to the Appellant's monthly income could alter her eligibility status. Without evidence that the Respondent correctly considered allowable IRS 1040 deductions when excluding the Appellant's reported tuition expense as an income deduction, the Board of Review cannot clearly discern whether the Respondent correctly denied the Appellant's Medicaid eligibility.

CONCLUSIONS OF LAW

- 1) To be eligible for Medicaid benefits, the Appellant's gross monthly income must be equal to or below \$2,365.
- 2) Policy requires the Respondent to incorporate allowable income deductions –found on IRS form 1040—in the calculation of MAGI-based income.
- 3) The Appellant indicated on her Medicaid application that she made monthly federal income tax deductible tuition payments.
- 4) The evidence failed to prove that the Respondent assessed the Appellant's tuition income deduction claim when determining the Appellant's Medicaid eligibility.

DECISION

It is the decision of the State Hearing Officer to **REMAND** the matter for a new Medicaid eligibility determination in consideration of the Appellant's reported federal income tax deductions.

ENTERED this 13th day of November 2019.

Tara B. Thompson
State Hearing Officer