



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

**Bill J. Crouch
Cabinet Secretary**

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

**Jolynn Marra
Interim Inspector General**

November 21, 2019



RE: [REDACTED] v. WV DHHR
ACTION NO.:19-BOR-2600

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Bonnie Price, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 19-BOR-2600

**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 November 19, 2019, on an appeal filed October 22, 2019.

The matter before the Hearing Officer arises from the October 11, 2019, decision by the Respondent to terminate the Appellant's Adult Modified Adjusted Gross Income (MAGI) Medicaid benefits.

At the hearing, the Respondent appeared by Bonnie Price, Economic Service Supervisor. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Medicaid Review Form mailed September 16, 2019 (blank copy)
- D-3 Data Exchange – Social Security Administration Benefit Details
- D-4 West Virginia Income Maintenance Manual §4.7.2 and Chapter 4 Appendix A
- D-5 Hearing Request received October 22, 2019
- D-6 Notice of Reinstatement of Medicaid dated October 24, 2019
- D-7 Department's Summary

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) The Appellant was a recipient of Adult Medicaid benefits.
- 2) The Appellant submitted an eligibility review form on October 2, 2019.
- 3) The Respondent verified through an online data exchange with the Social Security Administration that the Appellant was receiving Social Security benefits of \$1,465 monthly with no deductions or garnishments indicated (Exhibit D-3).
- 4) The Respondent notified the Appellant on October 11, 2019, that his income was excessive to continue receiving Adult Medicaid benefits.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.7.2 states income of each member of the individual's MAGI household is counted. To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count, for the current month. The MAGI differs from the adjusted gross income, because MAGI accounts for additions and adjustments.

After the income has been determined for all MAGI household members, determine if any adjustments/deductions are applicable and subtract them from the income. The Worker must incorporate allowable deductions (also known as adjustments) in the calculation of MAGI-based income. These adjustments/deductions can be found on page one of IRS form 1040. The following items are subtracted from the individual's income:

- Educator expenses
- Certain business expenses of reservists, performing artists, and fee-basis government officials
- Health savings account deductions
- Moving expenses (Only for members of the Armed Forces after 12/31/2017)
- Deductible part of self-employment tax

- Self-employed Simplified Employee Pension (SEP), Savings Incentive Match Plan for employees (SIMPLE), and qualified plans
- Self-employed health insurance deductions
- Penalty on early withdrawal of savings Alimony paid ONLY if court ordered prior to January 2019
- IRA deductions
- Student loan interest deductions

West Virginia Income Maintenance Manual §4.7.3 states the only allowable income disregard is an amount equivalent to five percentage points of 100% of the Federal Poverty Level (FPL) for the applicable MAGI household size. The 5% FPL disregard is not applied to every MAGI eligibility determination and should not be used to determine the MAGI coverage group for which an individual may be eligible. The 5% FPL disregard will be applied to the highest MAGI income limit for which an individual may be determined eligible.

West Virginia Income Maintenance Manual §4.7.4 states the applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage groups.

- Step 1: Determine the MAGI-based gross monthly income for each MAGI household income group (IG).
- Step 2: Convert the MAGI household's gross monthly income to a percentage of the FPL by dividing the current monthly income by 100% of the FPL for the household size. Convert the result to a percentage.

If the result from Step 2 is equal to or less than the appropriate income limit, no disregard is necessary, and no further steps are required.

- Step 3: If the result from Step 2 is greater than the appropriate limit, apply the 5% FPL disregard by subtracting five percentage points from the converted monthly gross income to determine the household income.
- 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.

Applicants with income below the MAGI standard of 133% of the FPL are determined eligible for coverage in a MAGI coverage group.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists 133% FPL for a one-person MAGI household as \$1,385

DISCUSSION

To qualify for Adult Medicaid benefits, the modified adjusted gross monthly income must be below 133% FPL for the size of the assistance group. Policy allows certain adjustments or deductions from an individual's gross income, consistent with those deductions found on the Internal Revenue Service Form 1040.

The Appellant is the sole member of his Medicaid assistance group; therefore, his monthly income must be less than \$1,385. The Appellant receives \$1,465 monthly in Social Security benefits.

The Appellant testified that \$219.75 is deducted from his Social Security benefits each month due to a court-ordered garnishment. The Appellant could not definitively explain what the garnishment was for, stating only that he had some trouble several years ago and the garnishment is to pay restitution.

Based on the Appellant's explanation of the garnishment and the lack of documentation to confirm the purpose of the garnishment from his monthly Social Security benefit, the Appellant is not entitled to receive the \$219.75 as deduction from his gross income amount of \$1,465.

Whereas the Appellant's countable income exceeds the allowable limit as set forth in policy, he is no longer eligible to receive Adult Medicaid benefits.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, the income limit for an individual to receive Adult Medicaid benefits is \$1,385.
- 2) The Appellant's gross Social Security benefit is \$1,465 monthly.
- 3) The garnishment from the Appellant's monthly Social Security benefit is not an allowable deduction as defined by policy.
- 4) The Appellant's countable income exceeds the allowable limit to continue receiving Adult Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Adult Medicaid benefits.

ENTERED this 21st day of November 2019.

Kristi Logan
State Hearing Officer