



**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

January 17, 2019



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 18-BOR-2619

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 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: Jennifer Fischer, [REDACTED] County DHHR

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

██████████,

**Appellant,**

v.

**ACTION NO.: 18-BOR-2619**

**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 December 18, 2018, on an appeal filed October 24, 2018. The hearing was conducted by Stephen Baisden and was reassigned to this Hearing Officer for issuance of decision.

The matter before the Hearing Officer arises from the October 11, 2018 determination by the Respondent to terminate the Appellant's Adult Medicaid.

At the hearing, the Respondent appeared by Jennifer Fischer, 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 West Virginia Income Maintenance Manual (WVIMM) §10.7
- D-2 WVIMM §10.6
- D-3 WVIMM Chapter 7
- D-4 WVIMM §4.7
- D-5 WVIMM Chapter 4 Appendix F
- D-6 WVIMM §§3.7.2-3.7.3
- D-7 WVIMM Chapter 4 Income Chart
- D-8 DHHR Notice, dated October 11, 2018

**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) The Appellant received Medicaid benefits for a three-person household that included herself and two dependents.
- 2) During the certification period, the Appellant's 18-year-old adult son completed a Medicaid application and reported that although he still resided with the Appellant, he was no longer claimed as a dependent on her taxes.
- 3) The Appellant's adult son was approved to continue receipt of Medicaid benefits in his own case.
- 4) The Appellant's Medicaid eligibility was reassessed based on a two-person household that included the Appellant and her dependent minor child.
- 5) The Appellant's monthly income was \$2,059.27.
- 6) On October 11, 2018, the Respondent issued a letter advising the Appellant that her Adult Medicaid would be terminated, effective November 1, 2018, due to her income exceeding the Medicaid income eligibility guidelines. (Exhibit D-8)
- 7) The Respondent's notice reflected \$3,164.81 for the Appellant in monthly earned income. (Exhibit D-8)

### **APPLICABLE POLICY**

#### **West Virginia Income Maintenance Manual (WVIMM) §3.7.2 provides in part:**

Income of each member of the individual's MAGI household is counted. The income group is determined using the MAGI methodology established in Section 3.7.3.

#### **WVIMM §3.7.3 provides in part:**

The number of individuals included in the MAGI household size is determined by assessing each applicant in the MAGI household separately.

If the applicant is a tax filer and will not be claimed as a tax dependent, the MAGI household includes themselves and each individual he expects to claim as a tax dependent ...

If the applicant is a tax filer and will be claimed as a tax dependent on his parent's taxes, the applicant's Medicaid household consists of the tax applicant, the tax filer claiming him as a dependent, and any other dependents in the tax filer's household ...

#### **WVIMM §4.7 provides in part:**

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

**WVIMM Chapter 4, Appendix A provides in part:**

For a two-person household, 133% of the Federal Poverty Level (FPL) is \$1,825.  
For a three-person household, 133% of the FPL is \$2,304.

**WVIMM §10.6 provides in part:**

Individuals which receive Medicaid changes between application and redeterminations are either eligible or ineligible. Every reported change results in a redetermination of eligibility. For most Medicaid coverage groups, eligibility of assistance group (AG) members is determined on an individual basis, therefore, the same change may impact each AG member differently ....

(2) Clients must report all changes in circumstances such as, but not limited to, income, assets, household composition, and change of address. The client must report changes as soon as possible after he becomes aware of them. This allows the Worker to update the case and allows for advance notice, if the reported information results in an adverse action.

**WVIMM §23.10.4 provides in part:**

To be eligible for Medicaid Adult Group coverage, income must not exceed 133% of the Federal Poverty Level (FPL).

**DISCUSSION**

The Appellant was a recipient of Adult Medicaid benefits. When her adult son applied for Medicaid benefits, the Appellant's eligibility was reassessed. The Respondent determined that the Appellant's income exceeded the Medicaid income eligibility guidelines for a two-person household and terminated the Appellant's Adult Medicaid benefits, effective November 1, 2018.

The Respondent had to prove that the Appellant's income exceeded the corresponding Medicaid income eligibility guidelines for the number of persons in her household. The Appellant argued that her eligibility should not have been redetermined because she was not required to report the change in her adult son's status until her next review. Pursuant to policy, the Appellant is required to report all changes in circumstances as soon as possible in-between Medicaid redeterminations. Policy affirms that when the Appellant's son reported changes on his Medicaid application, the Respondent was required to redetermine on an individual basis, the continued Medicaid eligibility of the remaining members of the Assistance Group (AG).

The Appellant argued that she had not yet determined whether she would claim her adult son as a tax dependent, that his income should not have been included in her eligibility determination, and that her adult son's income had been calculated weekly when it should have been calculated every two weeks. The Appellant testified that as of the date of the hearing, her adult son would claim himself on his own taxes, but, that she would check with H & R Block to determine if he could be included in her tax claim. The Appellant did not contest that her adult son had indicated on his application that he was no longer a tax dependent. Pursuant to policy, since the Appellant's son would not be claimed as a tax dependent, his MAGI household included himself. As the Appellant's son receives Medicaid benefits in his own case, his income should not have been used to determine the Appellant's Medicaid eligibility; therefore, arguments made about the weekly calculation of his income were given little weight in the decision of this Hearing Officer.

The Respondent testified multiple times that the Appellant's countable monthly income was \$2,059.27 and the amount was not contested by the Appellant. Although the amount of income reflected on the October 11, 2018 Adult Medicaid termination notice equaled a different amount, the parties did not dispute that the amount of monthly income the Appellant was receiving at the time of the termination decision was \$2,059.27. Because the Board of Review must consider evidence that reflected the circumstances of the Appellant at the time of the Respondent's October 11, 2018 determination to terminate the Appellant's Adult Medicaid, this Hearing Officer considered the Appellant's \$2,059.27 monthly income when arriving at a decision.

The Appellant's remaining MAGI household included herself and her dependent minor son. To be eligible for Adult Medicaid, the Appellant's monthly income had to be equal to or below \$1,825. As the Appellant's monthly income exceeded the Medicaid eligibility limit for a two-person household, the Respondent acted correctly to terminate the Appellant's Adult Medicaid benefits.

### **CONCLUSIONS OF LAW**

- 1) The Appellant's two-person Assistance Group includes the Appellant and her dependent minor son.
- 2) For a two-person Assistance Group (AG) to be financially eligible for Adult Medicaid, the AG's income had to be equal to or below \$1,825.
- 3) The Appellant's monthly income equaled \$2,059.27.
- 4) The Respondent correctly acted to terminate the Appellant's Adult Medicaid benefits.

### **DECISION**

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

ENTERED this 17<sup>th</sup> day of January 2019.

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**Tara B. Thompson**  
State Hearing Officer