



**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**

January 16, 2019



RE: [REDACTED] v. WV DHHR
ACTION NO.:18-BOR-2869

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: Leslie Gilbert, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2869

**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 January 16, 2019, on an appeal filed December 6, 2018.

The matter before the Hearing Officer arises from the November 27, 2018, decision by the Respondent to deny the Appellant's application for Medicare Premium Assistance and SSI-Related Medicaid.

At the hearing, the Respondent appeared by Leslie Gilbert, Economic Service Worker. The Appellant appeared by her daughter, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Department's Summary
- D-2 Application for Healthcare Coverage dated October 15, 2018
- D-3 West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-4 Notice of Denial dated November 27, 2018
- D-5 West Virginia Income Maintenance Manual §4.14.4.J.1
- D-6 Sign-In Sheet dated November 29, 2018
- D-7 Hearing Request Notification Form

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 applied for Medicare Premium Assistance and SSI-Related (spenddown) Medicaid on October 15, 2018.
- 2) The Appellant reported that her monthly income was Social Security \$587, pension \$882 and self-employment \$120 (Exhibit D-2).
- 3) On November 26, 2018, the Appellant's daughter, [REDACTED], reported to the Respondent that her mother was no longer self-employed.
- 4) Ms. [REDACTED] also reported that her mother did not have enough bills to meet a spenddown amount of \$8,334.
- 5) The Respondent issued a Notice of Denial on November 27, 2018, advising that the Appellant's income was excessive to receive Medicare Premium Assistance benefits and the SSI-Related Medicaid was denied as she did not have bills to meet a spenddown.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.12.1 states countable income for Qualified Medicare Beneficiary (QMB), Specified Low Income Medicare Beneficiary (SLIMB) and Qualified Individual (QI-1) coverage groups is determined as follows:

- Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions.
- Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions.
- Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income.
- Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels for the appropriate number of persons.

If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client(s) is eligible.

Eligibility for these coverage groups is determined as follows:

- QMB – Income is less than or equal to 100% Federal Poverty Level (FPL).
- SLIMB – Income is greater than 100% FPL, but less than or equal to 120% FPL.

- QI-1 – Income is greater than 120% FPL, but less than or equal to 135% FPL.

West Virginia Income Maintenance Manual §4.14.2 lists the allowable unearned income deductions and disregards for QMB, SLIMB and QI-1 coverage groups as:

- SSI \$20 Disregard - a \$20 disregard is applied to the total gross unearned income.
- Unearned Income Diverted to a PASS - any unearned income diverted to a PASS account is deducted from income.
- One-third of the child support intended for the SSI-Related child is disregarded.
- Death Benefits - The portion of a lump-sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual, is deducted.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists the income limits for QMB, SLIMB and QI-1 coverage groups as:

- QMB - \$1,012
- SLIMB - \$1,013 - \$1,214
- QI-1 - \$1,215 - \$1,366

West Virginia Income Maintenance Manual §4.14.4.J states that to be eligible for Medicaid, the Income Group's (IG) monthly countable income must not exceed the amount of the MNIL. If the income exceeds the MNIL, the AG has an opportunity to spend the income down to the MNIL by incurring medical expenses. These expenses are subtracted from the income for the six-month POC, until the income is at, or below, the MNIL for the Needs Group (NG) size.

The Worker must determine the amount of the client's spenddown at the time of application based on information provided by the client. DFA-6A is attached to the verification checklist (DFA-6) that notifies the client that an eligibility decision cannot be made until he meets his spenddown by providing proof of medical expenses. The application is denied when the applicant indicates there are no medical bills or anticipated medical expenses in the 30-day application period that may be used to meet the spenddown for the Medicaid AG member(s).

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists the MNIL limit for a one-person assistance group as \$200.

DISCUSSION

Pursuant to policy, the total countable monthly income must be less than \$1,366 to receive Medicare Premium Assistance benefits. The Appellant's monthly income is \$1,469. To qualify for SSI-Related Medicaid, the applicant's net countable income must not exceed the Medically Needy Income Level (MNIL) for the size of the assistance group. If the net countable income exceeds the MNIL, the assistance group has an opportunity to spend the income down to the MNIL by incurring medical expenses. These expenses are subtracted from the income for the six-month period of consideration (POC), until the income is at or below the MNIL. This process is referred to as meeting a spenddown. The application is denied when the applicant indicates there are no

medical bills or anticipated medical expenses in the 30-day application period that may be used to meet the spenddown for the Medicaid assistance group.

The Appellant's representative did not contest that her mother's income exceeded the allowable limit to receive Medicare Premium Assistance. Ms. [REDACTED] testified that her mother is on dialysis, and needs assistance in paying for medical treatment. Ms. [REDACTED] confirmed that the Appellant does not have enough bills to meet a spenddown.

The Respondent acted in accordance with policy in denying the Appellant's application for Medicare Premium Assistance due to excessive income and denying SSI-Related Medicaid for failure to meet the spenddown amount of \$8,334.

CONCLUSIONS OF LAW

- 1) The income limit for an individual to receive Medicare Premium Assistance is \$1,366 monthly.
- 2) The Appellant's total countable income is \$1,469 monthly.
- 3) The Appellant's income exceeds the allowable limit to receive Medicare Premium Assistance benefits.
- 4) The Appellant's countable net income exceeded the MNIL limit for a one-person assistance group, and therefore was required to meet the spenddown provision found in policy.
- 5) The Appellant's spenddown was determined to be \$8,334.
- 6) The Appellant did not have bills to meet the spenddown.
- 7) The Respondent was correct to deny the Appellant's application for SSI-Related Medicaid for failure to meet a spenddown.

DECISION

It is the decision of the State Hearing Officer to uphold the decision of the Respondent to deny the Appellant's application for Medicare Premium Assistance and SSI-Related Medicaid.

ENTERED this 16th day of January 2019.

**Kristi Logan
State Hearing Officer**