



**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**

February 5, 2020



RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-1005

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: Margaret Fain, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 20-BOR-1005

**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 29, 2020, on an appeal filed December 9, 2019.

The matter before the Hearing Officer arises from the December 4, 2019, decision by the Respondent to terminate the Appellant's Modified Adjusted Gross Income (Adult Medicaid) benefits.

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

Department's Exhibits:

D-1 Paystubs from ██████████ dated October 18, November 1 and November 15, 2019

D-2 Employer Statement

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 (MAGI) benefits.
- 2) The Appellant submitted an eligibility review form to the Respondent on November 16, 2019.
- 3) The Respondent calculated the Appellant's income as \$2,480.78 based upon paystubs submitted with the Appellant's review form (Exhibit D-1).
- 4) The Appellant submitted a statement from his employer with the review form explaining the company's commission structure and the Appellant's anticipated income (Exhibit D-2).
- 5) The Respondent issued notice to the Appellant that his Adult Medicaid benefits would terminate effective January 1, 2020 due to excessive income.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.7.2 states income of each member of the individual's Modified Adjusted Gross Income (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.

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 Federal Poverty Level (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.

West Virginia Income Maintenance Manual §4.6.1 states that Medicaid eligibility is determined on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the assistance group (AG). For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period.

West Virginia Income Maintenance Manual §7.2.4 states the Worker has the responsibility to request additional verification if information provided is incomplete or additional information is necessary to determine eligibility.

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

Policy stipulates that a caseworker must determine a monthly amount of income that the assistance group anticipates receiving during the certification period. Past income is only used when it reflects what the recipient expects to receive during the certification period.

The Appellant completed an eligibility review in November 2019. The paystubs for the Appellant submitted with his review form documented that he received \$1,153.85 bi-weekly, calculated as \$2,480.78 monthly. The Appellant testified that he recently completed his training period with his employer and would no longer receive \$1,153.85 bi-weekly. The Appellant submitted a statement from his employer indicating that effective January 2020, his income would be commission based, earning 10% of his monthly sales. The employer statement explained that based on his recent sales record, his monthly commission would be approximately \$1,000 (Exhibit D-2).

The Respondent testified that the statement the Appellant submitted from his employer was typewritten, was not on company letterhead, and was signed only by “Allegra”. The Respondent did not accept the employer statement as authentic and purported that there was no contact information on the statement for further verification.

Pursuant to policy, the Worker has the responsibility to request additional verification if the information provided is incomplete or additional information is necessary to determine eligibility. The Appellant reported a change in his income and provided an employer statement to verify that he would no longer receive a salary and his income would be commission only. The Respondent had a responsibility to request that the Appellant provide additional documentation if the information provided by the Appellant’s employer was incomplete.

The Respondent incorrectly used income that could not be expected to continue during the certification period in determining the Appellant's eligibility for Adult Medicaid benefits.

CONCLUSIONS OF LAW

- 1) Policy stipulates that the Worker must determine the amount of income an assistance group anticipates receiving during the certification period.
- 2) The Appellant reported a decrease in income during the November 2019 eligibility review and provided a statement from his employer verifying his anticipated earnings.
- 3) The Respondent terminated the Appellant's Adult Medicaid benefits based upon income that he no longer anticipated to receive.
- 4) The Respondent failed to request additional verification from the Appellant to supplement the documentation provided from his employer.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to terminate the Appellant's Adult Medicaid benefits due to excessive income. The matter is hereby **remanded** to allow the Appellant the opportunity to provide further verification of the decrease in his anticipated income.

ENTERED this 5th day of February 2020.

Kristi Logan
State Hearing Officer