



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Bill J. Crouch  
Cabinet Secretary

Jolynn Marra  
Interim Inspector General

February 21, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 20-BOR-1135

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Misty Cork, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 20-BOR-1135**

**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 convened on February 19, 2020, on an appeal filed January 29, 2020.

The matter before the Hearing Officer arises from the Respondent's January 13, 2020 denial of Medicare Premium Assistance Program benefits.

At the hearing, the Respondent appeared by Jessica Pauley, Economic Service Worker, and Terri Bland, Economic Services Supervisor, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Decision dated January 13, 2020
- D-2 West Virginia Income Maintenance Manual Chapter 4, Appendix A
- D-3 Fair Hearing Request Form submitted by Appellant

**Appellant's Exhibits:**

- A-1 Verification of Social Security income and child support garnishment dated December 23, 2019

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 (MPA) Program benefits on January 7, 2020.
- 2) The Respondent determined that the Appellant's gross monthly unearned income was \$1,542.50 in Social Security benefits.
- 3) The Appellant's countable monthly gross income exceeds the \$1,041 income limit for Qualified Medicare Beneficiary (QMB) benefits for a one-person Assistance Group (100 percent of the Federal Poverty Level (FPL)) (D-2).
- 4) The Appellant's countable monthly gross income exceeds the \$1,249 income limit for Specified Low-Income Medicare Beneficiary (SLIMB) benefits for a one-person Assistance Group (120 percent of the FPL) (D-2).
- 5) The Appellant's countable monthly gross income exceeds the \$1,406 income limit for Qualified Individual (QI) benefits for a one-person Assistance Group (135 percent of the FPL) (D-2).
- 6) The Appellant was notified of the Medicare Premium Assistance application denial in a Notice of Decision dated January 13, 2020 (D-1)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 4.3.1 states that Social Security benefits are countable sources of income for Medicare Premium Assistance Programs.

West Virginia Income Maintenance Manual Chapter 23.12.1 states that for QMB benefits, monthly gross income must be less than or equal to 100 percent of the FPL.

West Virginia Income Maintenance Manual Chapter 23.12.2 states that for SLIMB benefits, monthly gross income must be less than or equal to 120 percent of the FPL.

West Virginia Income Maintenance Manual Chapter 23.12.3 states that monthly gross income must be less than or equal to 135 percent of the FPL for QI benefits.

West Virginia Income Maintenance Manual Chapter 4, Appendix A (D-2) reveals that income limits for MPA Programs for a one-person Assistance Group are as follows: QMB- \$1,041 per month (100 percent FPL); SLIMB- \$1,249 per month (120 percent FPL); and QI- \$1,406 per month (135 percent FPL).

West Virginia Income Maintenance Manual Chapter 4.14.2.B.1 states that SSI Medicaid Groups are entitled to a \$20 unearned income disregard when determining countable income. Child support payments are not listed as allowable deductions.

### **DISCUSSION**

Policy states that individuals whose gross monthly income exceeds \$1,406 after a \$20 unearned income disregard are ineligible for all Medicare Premium Assistance Programs.

The Appellant did not dispute the amount of his gross income, but provided a letter from the Social Security Administration (A-1) which indicates that a child support garnishment of \$624 is deducted from his Social Security benefits, bringing his net income to \$798 per month after a Medicare deduction of \$144.60.

The Respondent's witness testified that policy does not permit a child support deduction when calculating countable income for Medicare Premium Assistance Programs.

### **CONCLUSIONS OF LAW**

- 1) Policy states that individuals whose gross monthly income exceeds \$1,406 after a \$20 unearned income disregard are ineligible for all Medicare Premium Assistance Programs.
- 2) The Appellant's total gross income at the time of application was \$1,542.50 per month.
- 3) The Appellant's countable gross income was calculated as \$1,522.50 after the \$20 SSI Disregard.
- 4) The Appellant's countable income is excessive for all Medicare Premium Assistance Programs.
- 5) Child support is not an allowable deduction when determining countable income for SSI Medicaid Groups.
- 6) The Appellant's Medicare Premium Assistance Program application was appropriately denied in accordance with policy.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Respondent's denial of the Appellant's Medicare Premium Assistance Program application.

**ENTERED this 21st Day of February 2020.**

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**Pamela L. Hinzman  
State Hearing Officer**