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

Bill J. Crouch
Cabinet Secretary

Board of Review
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Jolynn Marra
Interim Inspector General

November 24, 2020

[redacted]

RE: [redacted] v. WVDHHR
ACTION NO.: 20-BOR-2195

Dear Mrs. [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, MLS
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: [redacted], Relative
Andrew Church, [redacted] County DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

[redacted],

Appellant,

v. **ACTION NO.: 20-BOR-2195**

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 [redacted]. 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 October 29, 2020 on an appeal filed with the Board of Review on September 18, 2020.

The matter before the Hearing Officer arises from the Respondent's August 20, 2020 decision to deny the Appellant's application for Medicaid benefits.

At the hearing, the Respondent appeared by Andrew Church, [redacted] County DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:
None

Appellant's Exhibits:
A-1 Physician Letter, dated October 19, 2020

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 applied for Medicaid benefits for a two-person household.

2) On August 20, 2020, the Respondent issued a notice advising the Appellant that she was ineligible for Medicaid benefits due to the AG's income of $2,709 exceeding the Medicaid eligibility guidelines.

3) The AG's only source of income is $2,709 monthly gross earned income from the Appellant's husband's employment.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §§ 3.7.1.A provides in part:

Adults aged 19 or older and under age 65 must be included in the Adult Medicaid Modified Adjusted Gross Income (MAGI) Assistance Group (AG).

WVIMM §§ 3.7.2 and 3.7.3 provide in part:

Income of each member of the MAGI household is counted. In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse.

WVIMM § 23.10.4 provides in part:

As a result of the Affordable Care Act (ACA), the Adult Group was created, effective January 1, 2014. Eligibility for this group is determined using MAGI methodologies. Medicaid coverage in the Adult Group is provided to individuals who are aged 19 or older and under age 65.

To be eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

WVIMM § 4.3.2 provides in part:

For the Adult Group, wages are a countable source of income when determining eligibility.

WVIMM Chapter 4, Appendix A provides in part:

For a two-person AG, 133% of the FPL is $1,911.

DISCUSSION

The Appellant, by her representative, contested the Respondent's denial of her Medicaid application and argued that she is unable to afford insurance through Consolidated Omnibus Budget Reconciliation Act (COBRA), her husband's employer, or the Federally Facilitated Marketplace (FFM). The Appellant's representative argued that the Appellant needs Medicaid benefits to facilitate necessary medical treatments related to her brain cancer diagnosis.

To prove that the Respondent correctly denied the Appellant's Medicaid application, the Respondent had to demonstrate by a preponderance of evidence that the Assistance Group's (AG) income exceeded the Medicaid eligibility guidelines for a two-person AG. The Respondent testified that the AG's only income was earned wages from the Appellant's husband. The policy requires the Appellant's husband to be included in her AG and stipulates that his wages count as earned income for the purposes of determining Medicaid eligibility. The Appellant's representative testified that the Respondent's testimony regarding the amount of the AG's income was correct. The Appellant did not contest the Respondent's calculation of monthly gross income amount. No evidence was entered to demonstrate that the AG was eligible for any income deductions. Therefore, the preponderance of evidence established that the AG's gross monthly income was $2,709. The policy provides that to be eligible for Adult Group Medicaid benefits, the AG's income had to be equal to or below $1,911.

While the Appellant's evidence established that the Appellant has a need for ongoing medical treatment, this Hearing Officer is unable to grant Medicaid eligibility beyond the policy requirements. The Board of Review is required to follow policy and state regulations and can only determine if the agency acted correctly and followed the policy. Therefore, the Board of Review lacks the authority to change policy or give eligibility considerations beyond what is written in the policy. As this Hearing Officer's decision is policy-based and the policy does not provide any exceptions based on the Appellant's medical necessity or ability to afford necessary healthcare, this Hearing Officer is unable to award any income exclusions or eligibility exceptions.

CONCLUSIONS OF LAW

1) To be eligible for Adult Medicaid benefits, the Appellant's monthly gross income must be equal to or below $1,911 for a two-person Assistance Group (AG).

2) The Appellant's AG's monthly gross income of $2,709 exceeded the Medicaid eligibility income limit.

3) The Respondent correctly denied the Appellant's Adult Medicaid benefit application.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's application for Medicaid benefits.

ENTERED this 24th day of November 2020.

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Tara B. Thompson, MLS
State Hearing Officer