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 14, 2020

[redacted]

RE: [redacted] v. WVDHHR
ACTION NO.: 19-BOR-2752

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 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: David Griffin, [redacted] County DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

[redacted],

Appellant,

v. **ACTION NO.: 19-BOR-2752**

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 January 7, 2020 an appeal filed November 21, 2019.

The matter before the Hearing Officer arises from the October 2, 2019 determination by the Respondent to terminate the appellant's Adult Medicaid benefits.

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

Department's Exhibits:

D-1 DHHR Notice, dated October 2, 2019
D-2 eRAPIDS Unearned Income printout
D-3 West Virginia Income Maintenance Manual (WVIMM) Chapter 4 Income Chart
D-4 DHHR Notice, dated November 26, 2019

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 is a recipient of Adult Medicaid benefits for a one-person Assistance Group (AG).

2) In September 2019, the Appellant began receiving $2,430 monthly Social Security Disability Income (SSDI) unearned income (Exhibit D-2).

3) On October 2, 2019, the Respondent issued a notice advising the Appellant that his Adult Medicaid benefits would end, effective November 1, 2019, due to his income exceeding the Medicaid income eligibility limit (Exhibit D-1).

4) The Appellant's gross monthly unearned income is $2,430 (Exhibits D-1, D-2, and D-4).

5) The Appellant did not qualify for any allowable income deductions for Adult Medicaid eligibility consideration (Exhibit D-1).

6) On November 26, 2019, the Respondent issued a notice advising that the Appellant was ineligible for Medicaid Spenddown benefits due to his income and assets exceeding the Medicaid income eligibility limit (Exhibit D-4).

7) The Respondent applied a $20 income disregard when calculating the Appellant's Medicaid Spenddown eligibility (Exhibit D-4).

8) The Respondent considered an asset amount of $4,000 and a Countable Net Income amount of $2,410 when considering the Appellant's eligibility for Medicaid Spenddown benefits (Exhibit D-4).

APPLICABLE POLICY

Adult Group Medicaid

West Virginia Income Maintenance Manual (WVIMM) § 23.10.4 Adult Group provides in part:

The Medicaid Adult Group was created pursuant to the Affordable Care Act (ACA). Eligibility is determined using Modified Adjusted Gross Income (MAGI) methodologies established in Section 4.7.

To be eligible for Medicaid Adult Group coverage, the individual must:

- Be age 19 or older and under age 65
- Not be eligible for another categorically mandatory Medicaid coverage group such as SSI, Deemed SSI, Parent/Caretaker Relatives, Pregnant Women, Children Under Age 19, and Former Foster Children.
- Not be enrolled in Medicare Part A or B; and
- Be income eligible pursuant to Chapter 4

- Be income must be at or below 133% of the Federal Poverty Level

Other Medicaid Groups:

WVIMM §§ 10.6.5.A-B Assistance Group (AG) Closures and § 10.8.1 Change in Income provides in part:

> When the client's income changes to the point that he becomes ineligible, the AG is closed. The Department is required to consider the individual's Medicaid eligibility under other coverage groups prior to notifying the individual that Medicaid eligibility will end. Advanced notice is required for any adverse action.

WVIMM § 23.9 provides in part:

> All Medicaid coverage groups are assigned to one of two categories: Categorically Needy and Medically Needy.
>
> *Categorically Needy Medicaid* clients are families and children; aged, blind, or disabled individuals; and pregnant women who are eligible to receive Medicaid because they fall into a certain category AND meet financial criteria.
>
> *Medically Needy Medicaid* clients are those who would be eligible for Categorically Needy benefits except that their income and/or assets are too high. Even though their resources are too high for Categorically Needy Medicaid eligibility, they have high medical needs and cannot afford to pay their medical bills. These individuals are allowed to "spenddown" their excess income to the Medically Needy Income Level (MNIL) by incurring medical expenses. The spenddown process is explained in Chapter 4.

WVIMM Chapter 4, Appendix A provides in part:

> 133% of the FPL for a one-person AG is $1,385

DISCUSSION

The Appellant contested the Respondent's termination of his Adult Medicaid benefits and argued that he was medically needy and could not afford the cost of his life-sustaining medical treatment. The Respondent argued that the Appellant's eligibility for other types of Medicaid had been considered and that the Appellant had been found ineligible due to his income exceeding Medicaid eligibility limits.

The Respondent had to prove by a preponderance of evidence that the Appellant's gross monthly income exceeded the income eligibility guidelines for Adult Medicaid. Further, the Respondent had to demonstrate that the Appellant had been evaluated for other types of Medicaid eligibility.

Income

During the hearing, the Appellant agreed that the amount of unearned income used to determine his Medicaid benefit eligibility was accurate. In September 2019, the Appellant began receiving SSDI. Policy requires the Respondent to redetermine an individual's Adult Medicaid eligibility when a change of income is reported. Policy provides that to be eligible for Adult Medicaid benefits, the Appellant's income must be equal to or below 133% of the Federal Poverty Level (FPL). For a one-person Assistance Group, 133% FPL is $1,385. The Appellant's gross monthly unearned income amount of $2,430 exceeded the Medicaid income eligibility guideline. Because the Appellant's income exceeded the income eligibility guideline for Adult Medicaid, the Respondent acted correctly to terminate the Appellant's Adult Medicaid benefits.

Medicaid Spenddown

When a reported income change causes the individual to fail to meet Adult Medicaid eligibility guidelines, the Respondent is required to submit advanced notice of closure and evaluate the individual for other Medicaid coverage groups. Pursuant to the Respondent's review of additional Medicaid eligibility, evidence demonstrated that the Appellant was not financially eligible for other categorically needy Medicaid groups. The evidence demonstrated that the Respondent evaluated the Appellant for medically needy Medicaid Spenddown eligibility and found the Appellant to be ineligible due to income and assets exceeding the Medicaid eligibility limits.

During the hearing, the Appellant advised the Respondent that his assets equaled $2,000, not $4,000 as outlined in the November 2019 notice. During the hearing, the Appellant provided the Respondent with bank verification of his asset amount. The Appellant testified that he had not advised the Respondent of his correct amount of assets until the hearing. The Respondent testified that because the Appellant had provided him with verification of his asset amount during the hearing, the Respondent would be able to re-evaluate his eligibility for Medicaid Spenddown participation. The Appellant has a responsibility to advise the Respondent of accurate information regarding his circumstances so that the Respondent may make a correct determination about his Medicaid eligibility. Because the Respondent was not advised of the correct amount of the Appellant's assets prior to the November 26, 2019 denial of the Appellant's Medicaid Spenddown eligibility, the Respondent correctly denied the Appellant's eligibility pursuant to the information made available by the Appellant at the time of consideration.

CONCLUSIONS OF LAW

1) To be eligible for Adult Medicaid benefits, the Appellant's gross monthly income must be at or below 133% of the Federal Poverty Level (FPL).

2) The Appellant's gross monthly income exceeded 133% of the FPL.

3) The Respondent correctly terminated the Appellant's Adult Medicaid benefits due to his income exceeding Medicaid eligibility guidelines.

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 14th day of January 2020.

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Tara B. Thompson
State Hearing Officer