



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
Berkeley County DHHR  
PO Box 1247  
Martinsburg, WV 25402**

**Bill J. Crouch  
Cabinet Secretary**

**Jolynn Marra  
Interim Inspector General**

September 29, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 21-BOR-1901

Dear [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,

Lori Woodward, J.D.  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Rebecca Skeens, BCF, [REDACTED] Co. DHHR

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

██████████,

**Appellant,**

v.

**Action Number: 21-BOR-1901**

**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 September 16, 2021, on appeal filed August 10, 2021.

The matter before the Hearing Officer arises from the August 9, 2021 decision by the Respondent to deny the Appellant's application for Medicare Premium Assistance (MPA).

At the hearing, the Respondent appeared by Rebecca Skeens, Economic Services Worker. The Appellant appeared *pro se*. As a witness for the Appellant appeared her husband, ██████████. The witnesses were sworn, and the following documents were admitted into evidence.

**Department's Exhibits:** None

**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 Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) The Appellant applied for MPA.
- 2) The Appellant reported unearned income of \$1,084 per month in addition to her husband's earned income of \$5,805.97. After all deductions and disregards, the Respondent determined the Appellant was over the income limit for MPA eligibility.
- 3) Notification of the denial was sent to the Appellant on August 9, 2021.

- 4) The Appellant appeals the Respondent's denial asserting the incorrect earned income amount for her husband was used.

### **APPLICABLE POLICY**

When eligible spouses are both members of the Assistance Group (AG), they must receive the same level of coverage, QMB, SLIMB, or QI-1. (WV IMM Chapter 3, §3.15.1)

Only the individual or spouses who are eligible for QMB, SLIMB, or QI-1 are included in the AG. (WV IMM Chapter 3, §3.15.1.A)

When both spouses are eligible (without Medicaid Long Term Care (LTC) Services), the income of both individuals is counted. (WV IMM Chapter 3, §3.15.2.B)

When an individual is eligible with an ineligible spouse (without Medicaid Long Term Care (LTC) Services), the income of the ineligible spouse is considered to determine if it must be deemed. See Chapter 4 for how to determine if the spouse's income is deemed. (WV IMM Chapter 3, §3.15.2.C)

WV IMM, Chapter 4, §4.12.1, explains that in determining Medicaid eligibility for QMB (Qualified Medicare Beneficiary), SLIMB (Specified Low Income Medicare Beneficiary), QI-1 (Qualified Individual-1), countable income is determined by subtracting disregards and deductions from the total countable gross income. Countable income is determined by:

- 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. See Section 4.14 for SSI-Related deeming procedures.

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% 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.

WV IMM, Chapter 4, §4.14.4.D.3 *Deeming from Ineligible Spouse to SSI-Related Spouse*, explains that the deeming calculations are as follows:

- Step 1: Determine the ineligible spouse's total countable unearned income.
- Step 2: Subtract the needs of all ineligible dependent children. See Section 4.2 for the definition of ineligible child. The need of each ineligible child is determined separately by subtracting the child's income from the Allocation Standard. The difference, if any, represents the child's needs. Need of Each Ineligible Child Example: SSI payment level for one person is \$794 and the level for two persons is \$1,191. The Allocation Standard is \$397. Child #1's income is \$400. Because the child's income exceeds \$397, there is no deduction for Child #1's needs. Child

#2's income is \$125. The allocation for this child's needs is \$272. After a separate determination is made for each ineligible child, the allocations are added together and then subtracted from income.

- Step 3: Determine the ineligible spouse's total gross countable earned income.
- Step 4: Subtract the remainder of the needs of all ineligible children who could not be subtracted in Step 2.
- Step 5: Add together the ineligible spouse's remaining earned and unearned income.
- Step 6: Compare the amount from Step 5 to the Allocation Standard. When the remaining amount is less than the Allocation Standard, no income is deemed from the ineligible spouse and the individual income limit is used. When the remaining amount is in excess of the Allocation Standard, the ineligible spouse's remaining earned income from Step 4 is added to the SSI-Related spouse's earned income, and the ineligible spouse's remaining unearned income from Step 2 is added to the SSI-Related spouse's unearned income. The income limit for two persons is used, even though only one spouse is in the AG.

**WV IMM, Chapter 4, §4.2 Definitions**, defines Allocation Standard as the difference between the maximum Supplemental Security Income (SSI) payment for one and two persons.

**WV IMM, Chapter 4, Appendix A**, sets forth these amounts.

### **DISCUSSION**

The Appellant is protesting the Respondent's decision to deny her application for Medicare Premium Assistance (MPA) benefits based on being over income for eligibility. The Appellant argues that the incorrect income was used in the Respondent's denial.

West Virginia Medicaid provides three types of MPA programs: Qualified Medicare Beneficiary (QMB), Specified Low Income Medicare Beneficiary (SLIMB), and Qualified Individual-1 (QI-1). Each program has a different allowable income level to meet eligibility requirements: QMB – Income is less than or equal to 100% 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. Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income

Policy requires certain income to be used in calculation for determining MPA eligibility depending on whether there is an eligible spouse. If there is an ineligible spouse in the household, then if that ineligible spouse has income which is over the Allocation Standard, it must be deemed to the Appellant. The Allocation Standard is \$397 (\$1,191 SSI max for two people minus \$794 SSI max for one person). Because the Appellant's husband's income is over the Allocation Standard of \$397, his income is deemed to the Appellant.

The Appellant contends that the Respondent used the incorrect amount in the calculation of her husband's gross monthly income. The Appellant's husband, [REDACTED], testified that according to his calculations, his monthly gross income equals \$4,078.64 per month. Mr. [REDACTED] further testified he earns a base salary of \$49,500 and receives overtime and special pay. There was no

corroborating evidence presented regarding the income the Appellant and her husband used in order to calculate the average of his gross monthly income of \$4,078.64.

The Respondent's representative, Rebecca Skeens, testified that in calculating Mr. [REDACTED] income, she used the amount that was in the Respondent's computer system of \$5,805.97 per month, which was confirmed by the Appellant at the time of determination. Ms. Skeens also stated that she reviewed the online state query database which showed Mr. [REDACTED] earned an average of \$5,071 per month during the first quarter of 2021. Furthermore, Ms. Skeens testified that a July 16, 2021 paystub had been submitted which showed that Mr. [REDACTED] year-to-date gross income was \$38,101, which when divided by seven months, averages \$5,543 per month.

The Appellant's unearned income of \$1,084 per month is uncontested. After all allowable deductions and disregards, the total countable income using the lowest asserted monthly income by Appellant of \$4,078.64, the Appellant remains over the allowable income limit for MPA of \$1,960 ( $\$4,078.64/2 - \$65 + \$1084 - \$20 = \$3,038.32$ ). The Respondent's decision to deny the Appellant's MPA application is affirmed.

### **CONCLUSIONS OF LAW**

- 1) Policy requires consideration of the income of a ineligible spouse in determining MPA eligibility.
- 2) When the income of a ineligible spouse is more than the Allocation Standard, that income is deemed to the applying spouse.
- 3) In applying the least monthly amount asserted by the Appellant as to her husband's gross income, and after all allowable deductions and disregards, the total countable income was calculated to be \$3,038.32.
- 4) The Appellant remains over the allowable income limit of \$1,960 for MPA eligibility.

### **DECISION**

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

**ENTERED this 29<sup>th</sup> day of September 2021.**

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**Lori Woodward, Certified State Hearing Officer**