



**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

January 21, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-2542

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, MLS
State Hearing Officer
State Board of Review

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

cc: Makiba Hopkins, [REDACTED] County DHHR
Stephanie Smith, [REDACTED] County DHHR
Justin Thorne, [REDACTED] County DHHR

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

[REDACTED],

Appellant,

v.

ACTION NO.: 20-BOR-2542

**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 December 16, 2020 on an appeal filed with the Board of Review on November 18, 2020.

The matter before the Hearing Officer arises from the October 29, 2020 determination by the Respondent to deny the Appellant Medicaid eligibility.

At the hearing, the Respondent appeared by Makiba Hopkins, [REDACTED] County DHHR. The Appellant appeared *pro se* and was represented by his wife, [REDACTED]. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual (WVIMM) Chapter 4 Income Chart, §§ 4.7.3.A-4.7.5.A.1
- D-2 DHHR eRAPIDS Case Comments, dated September 14, 2020 through November 4, 2020
- D-3 **
- D-4 DHHR eRAPIDS Employment Income, printed December 8, 2020
- D-5 DHHR eRAPIDS MAGI Medicaid Income Budget, printed December 8, 2020
- D-6 DHHR Notice, dated October 29, 2020

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.

****During the hearing, the Respondent's representative referenced D-3 as West Virginia Income Maintenance Manual (WVIMM) Chart 2; however, the exhibit was not provided in the evidence packet. Therefore, the labeling of D-3 was removed from the exhibit list.**

FINDINGS OF FACT

- 1) The Appellant submitted an application for Medicaid eligibility for a two-person Assistance Group (AG) and requested that his eligibility be back-dated for a three-month period.
- 2) On October 29, 2020 the Respondent issued a notice advising the Appellant that his application for Medicaid eligibility had been denied because his monthly earned income of \$3,778.19 and monthly unearned income of \$1,880.87 exceeded the Medicaid eligibility guidelines.
- 3) The Respondent determined the Appellant's Medicaid eligibility —at the time of application— based on the Appellant's statement regarding the amount of the AG's earned income.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 4.7 provides in part:

The Modified Adjusted Gross Income (MAGI) methodology is used to determine financial eligibility for the Medicaid Adult Group.

WVIMM § 4.7.2 Calculating MAGI provides in part:

MAGI-based income includes adjusted gross income. To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count The Worker uses the budgeting method established in Section 4.6.1.

WVIMM § 4.6.1 provides in part:

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.

WVIMM § 4.6.1.A provides in part:

There are two methods of reasonably anticipating the income the client expects to receive.

Use past income only when both of the following conditions exist for a source of income: income from the source is expected to continue into the certification period or POC and the amount of income from the same source is expected to be more or less the same.

Use future income when either of the following conditions exist for a source of income:

- Income from a new source is expected to be received in the certification period or POC.
- The rate of pay or number of hours worked for an old source is expected to change during the certification period or POC. Income that normally fluctuates does not require use of future income.

WVIMM §23.10.4 provides in part:

To be eligible for Medicaid Adult Group coverage, income must not exceed 133% of the Federal Poverty Level (FPL).

WVIMM Chapter 4 Appendix A provides in part:

For a two-person assistance group, 133% of the Federal Poverty Level (FPL) is \$1,911.

DISCUSSION

The Respondent denied the Appellant's Medicaid eligibility based on the AG's monthly earned income of \$3,778.19 and monthly unearned income of \$1,880.87. The Appellant's representative contested the Respondent's income calculation and disputed the dates of the earned income used to determine the Assistance Group (AG)'s eligibility.

The Respondent had to prove by a preponderance of evidence that the Appellant's income exceeded Medicaid eligibility guidelines for a two-person AG. The Respondent had to prove by a preponderance of evidence that the dates and amounts of income used to determine the Appellant's Medicaid eligibility were correct.

The Appellant's representative contested the Respondent's income calculation and testified that the Appellant has not worked or had earned income since April 2020. The Appellant's

representative testified that the AG's monthly income should only have totaled \$1,700 for the eligibility period.

The Respondent argued that the Appellant's testimony during the hearing conflicted with the Appellant's report at the time of Medicaid eligibility interview in September 2020. The Respondent testified that during the Appellant's Medicaid interview in September 2020, the Appellant had reported that the Appellant's employment ended in August 2020. This assertion conflicted with the Appellant's testimony that the AG's earned income ended in April 2020. While the Respondent repeatedly referenced the Appellant's Medicaid eligibility interview having occurred in September 2020, the Respondent's Case Comments reflected that the Appellant did not apply for Medicaid until October 4, 2020 and Medicaid eligibility case comments were not made by the Respondent's worker until October 28, 2020. Further, the Case Comments do not specify that a Medicaid eligibility interview had occurred or reflect any language which would verify that the Appellant made a report regarding the dates of earned income received during the Medicaid application period.

The Respondent testified that because the Appellant's Medicaid application requested that Medicaid eligibility be retroactive for three months before the application, the Respondent had to consider the AG's income for July and August 2020. While the Case Comments reflect that the Respondent's worker updated the AG's SNAP benefit eligibility with "updated income," no evidence was entered to demonstrate what the AG's amount of income was.

During the hearing, the Respondent testified that for July and August 2020, the Appellant's income was based on the Appellant's statement of grossing \$1,284.19 monthly earned income. The Respondent testified that the Respondent's record reflected that the Appellant began receiving \$1,880.87 monthly unearned income in April 2020. The Respondent testified that the AG's gross monthly income equaled \$3,165.06 during July and August 2020. During the hearing, the Respondent argued that because the Appellant's income exceeded the Medicaid income eligibility guidelines during the back-dated period of eligibility, the Appellant's Medicaid eligibility was denied.

The Respondent's October 29, 2020 notice reflected that the Respondent had considered \$3,778.19 in monthly earned income and \$1,880.87 in unearned income when determining the Appellant's Medicaid eligibility. During the hearing, the Respondent was unable to provide evidence to explain how the Respondent made the Appellant's Medicaid eligibility determination based on the amount of income reflected on the notice.

The Appellant's Medicaid eligibility application was not provided as evidence. The Appellant contested the dates and amount of income used to determine the AG's SNAP eligibility and there was a discrepancy between the Respondent's record and the Appellant's representative's testimony regarding when the Appellant ceased receiving earned income. Therefore, this Hearing Officer cannot discern from the evidence presented that the Respondent correctly calculated the dates and amount of the AG's income when determining the Appellant's Medicaid eligibility. Without proof of what the Respondent used to calculate the household's income, the Hearing Officer cannot affirm that the Respondent acted correctly to deny the Appellant's Medicaid eligibility.

The policy requires that when information reported is unclear or inconsistent with the Respondent's record, a written verification checklist should be issued to clarify unclear information. Therefore, the Respondent must issue a written verification checklist to establish the amount of the AG's monthly income from July through October 2020.

CONCLUSIONS OF LAW

- 1) To be eligible for Medicaid, a two-person Assistance Group (AG) must have income equal to or below \$1,911.
- 2) The preponderance of evidence failed to prove the amount of the AG's income at the time of Medicaid application.

DECISION

It is the decision of the State Hearing Officer to **REMAND** the matter for the Respondent to obtain income verification to determine the AG's Medicaid eligibility for the back-dated months of July through September 2020 and for determining the AG's ongoing Medicaid eligibility, beginning in October 2020.

ENTERED this 21st day of January 2021.

Tara B. Thompson, MLS
State Hearing Officer