



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

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
State Capitol Complex Building 6, Room 817-B
Charleston, WV 25305
Phone 304-352-0805

Jolynn Marra
Interim Inspector General

January 12, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2657

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at this decision, the State Hearing Officer was governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources and by Federal Regulations at 45 CFR Part 155, Subpart F. 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: BORC

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

In Re: [REDACTED], Appellant

Action #20-BOR-2657

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 45 CFR Part 155, Subpart F as a result of the Federally Facilitated Marketplace (FFM) having denied Medicaid coverage to the Appellant and the Appellant's having chosen to appeal that denial and have the appeal heard by the appeals entity for the State of West Virginia. That entity is the Board of Review within the West Virginia Department of Health and Human Resources. The Appellant submitted her Appeal request to the FFM on or about November 2, 2020.

The question of whether the FFM was correct in determining that the Appellant was not eligible for Medicaid at the time of the application is determined *de novo* in this proceeding.

On December 14, 2020, the federal appeals entity electronically transmitted to the Board of Review the Appellant's appeal file.

The hearing was held by telephone. The Appellant appeared *pro se*. The Marketplace was not represented. The Appellant was sworn in.

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 completed an application for assistance with health care through the FFM, and was notified by letter dated November 1, 2020 that she was over income for Medicaid eligibility.
- 2) At the time of the denial by the FFM, the Appellant was an adult, age 26.
- 3) The Appellant is a tax-filer and is not claimed as a dependent on anyone else's tax return.

- 4) The Appellant does not claim anyone as a dependent on her tax return and is considered a one-person Assistance Group (AG).
- 5) The Appellant falls into the Adult coverage group.
- 6) The maximum allowable monthly income for one person under the Adult Group is equal to 133% of the Federal Poverty Level which, as of November 1, 2020, was \$1,415.
- 7) At the time of her FFM application, the Appellant attested she was hired to work no more than 30 hours per week earning \$15.00 per hour. These wages were converted to a monthly amount as follows: 30 hours x \$15 = \$450 per week which was multiplied by 4.3 equaling \$1,935 gross monthly income.
- 8) The Appellant testified that her average pay is \$1500 per month.

APPLICABLE POLICY

WV IMM, Chapter 23, §23.10.4, *ADULT GROUP*, explains in part that the income level for this Medicaid group is 133% of Federal Poverty Level. Medicaid coverage in the Adult Group is provided to individuals who are age 19 or older and under age 65 and not eligible for another categorically mandatory Medicaid coverage group, entitled to or enrolled in Medicare Part A or B, and requires that the income eligibility requirements described in Chapter 4 are met.

WV IMM, Chapter 3, §3.7.3, *THE MAGI HOUSEHOLD NEEDS GROUP (NG)*, explains in part, that the needs group is the number of individuals included in the MAGI household size based upon the MAGI rules for counting household members. To determine the MAGI household size, the following step-by-step methodology is used for each applicant. This methodology must be applied to each applicant in the MAGI household separately. If the applicant is a tax filer and will not be claimed as a tax dependent, the applicant's MAGI household includes themselves and each individual she expects to claim as a tax dependent, and her spouse if residing with the tax filer. This is known as the tax filer rule.

WV IMM, Chapter 4, §4.6.1, *BUDGETING METHOD*, explains in part, that eligibility is determined on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period.

WV IMM, Chapter 4, §4.6.1.D, *HOW TO USE PAST AND FUTURE INCOME*, states in part, that when pay fluctuates and is received more frequently than monthly, find an average amount per period and convert to monthly amount. Conversion of income to a monthly amount is accomplished by multiplying an actual or average weekly amount multiplied by 4.3.

WV IMM, Chapter 4, Appendix A, shows that 133% FPL for a single person equals \$1,415.

DISCUSSION

The Appellant completed a FFM application for Medicaid assistance. Based upon her attested income, the FFM determined she was over the income limit for Medicaid eligibility. On November 1, 2020, the FFM sent the Appellant notification of the denial. The Appellant is appealing the denial.

Pursuant to policy, individuals aged 19 and under age 65, who are not eligible for any other categorically mandatory coverage group, may have Medicaid eligibility considered under the Adult Group. Eligibility for the Adult Group is determined by MAGI methodology.

The Appellant testified she was hired by [REDACTED] in August 2020 on a part-time basis with a maximum of 30 hours per week at a rate of \$15 per hour. The Appellant provided weekly earnings statements for October 2020. Although these submitted earnings statements show weekly hours averaging 16 hours, they are questionable as the year-to-date amounts do not correspond to the gross earned income shown. When the October 2, 2020 weekly earnings are added to the year-to-date amount, it is less than what it should equal. The following week's statement, October 9, 2020, begins with a different year-to-date amount than what was stated on the previous statement. Additionally, the October 16, 2020 statement's year-to-date amount begins with the amount of the weekly earnings. Because the submitted earnings statements are questionable, these were not considered in this decision. Instead, the Appellant's own testimony that she earns an average of \$1,500 per month was considered, which is over 133% of the FPL of \$1,415 for Medicaid eligibility.

CONCLUSIONS OF LAW

The Appellant's monthly income is over the maximum allowable level for a one-person AG in the Adult Group under Medicaid expansion.

DECISION

- 1) Pursuant to policy, to be eligible for Adult Medicaid benefits for a one-person AG, the gross monthly income must be equal to or below the 133% Federal Poverty Level of \$1,415.
- 2) The Appellant's stated gross monthly income of \$1,500 is over the income guidelines for Adult Medicaid eligibility.

ENTERED this 12th day of January 2021.

Lori Woodward, Certified State Hearing Officer