



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Jeffrey H. Coben, MD
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

May 4, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1483

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Jessica Koch, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-1483

**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 was convened on May 2, 2023.

The matter before the Hearing Officer arises from the March 23, 2023 decision by the Respondent to deny Medicare Premium Assistance Program benefits.

At the hearing, the Respondent appeared by Jessica Koch, Economic Services Supervisor, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated March 23, 2023
- D-2 Assets Determination Summary
- D-3 Assets Summary
- D-4 West Virginia Income Maintenance Manual Chapter 5.4

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 Medicare Premium Assistance Program (MPAP) benefits on March 8, 2023.
- 2) The Respondent notified the Appellant on March 23, 2023, that her application was denied due to excessive income and assets (Exhibit D-1).
- 3) The Respondent admittedly erred in denying the Appellant's application based on excessive income because the Appellant would have been income-eligible for the Specified Low-Income Medicare Beneficiary (SLIMB) Program had assets not been determined excessive. The Appellant's gross unearned income is \$1,366.90 per month (Exhibit D-1).
- 4) The Appellant's countable assets included a checking account with a balance of \$1,106.89 (as of January 13, 2023), and a life insurance policy with a cash value of \$8,315 (Exhibit D-3).
- 5) The Respondent calculated total countable assets as \$9,421.99 (Exhibit D-4).
- 6) The asset maximum for a one-person MPAP Assistance Group is \$9,090 (Exhibit D-4).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 5.4 states that the asset limit for a one-person Assistance Group for Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLIMB), and Qualifying Individuals (QI-1) Programs is \$9,090 (Exhibit D-4).

West Virginia Income Maintenance Manual Chapter 4, Appendix A, states that the gross income limit for SLIMB benefits is \$1,458 per month for a one-person Assistance Group.

West Virginia Income Maintenance Manual Chapter 5.5.4 states that bank accounts are counted as assets for SSI Medicaid Groups (including MPAP groups). The current month's income deposited in accounts is not counted as an asset for that month. See Section 5.3. Checks dated or posted before the usual check receipt date are treated as if they were received in the usual month of receipt. Chapter 5.3.2 states that money counted as income when received becomes an asset if retained within the month after the month of receipt.

West Virginia Income Maintenance Manual Chapter 5.5.27 states that the cash value of life insurance policies is counted as an asset for SSI Medicaid Groups if the face value of all life insurance policies is more than \$1,500.

DISCUSSION

Policy states that the asset limit for MPAP benefits is \$9,090 for a one-person Assistance Group. The current month's income deposited in bank accounts is not counted as an asset for that month. Money counted as income when received becomes an asset if retained within the month after the month of receipt.

The Appellant, who receives Social Security income, testified that she has no money left in her checking account after she pays her bills each month.

Jessica Koch, Economic Services Supervisor for the Respondent, testified that the worker used the Appellant's checking account statement dated February 14, 2023, in determining the Appellant's countable assets in conjunction with the March 8, 2023, MPAP application. Ms. Koch stated that the worker used the beginning balance on that bank statement (as of January 13, 2023) so that income received in the month of February 2023 would not be counted as an asset. The Appellant received her Social Security income on February 3, 2023.

Policy specifies that money counted as income when received becomes an asset only if retained into the following month. Therefore, using the Appellant's bank statement balance as of January 13, 2023, is problematic since the balance likely included Social Security income received in January 2023. To determine countable assets, the Respondent should have used the Appellant's checking account balance as of February 1, 2023, to identify income retained from January 2023 that could be considered an asset. No bank statement was provided to verify the Appellant's checking account balance as of February 1, 2023.

Based on information provided during the hearing, the Respondent's decision to deny MPAP benefits based on excessive income was admittedly incorrect. The case is remanded to the Respondent to recalculate the Appellant's checking account asset value. The Respondent must consider the Appellant's checking account balance as of February 1, 2023 (or must average balances on the first day of the months of 2023) to determine countable checking account assets.

CONCLUSIONS OF LAW

- 1) The Appellant's Medicare Premium Assistance Program benefits were denied based on excessive income and assets.
- 2) The Respondent's witness acknowledged that the income denial was incorrect.
- 3) The Appellant's gross monthly income is \$1,366.90.
- 4) The income limit for SLIMB benefits is \$1,458 for a one-person Assistance Group.
- 5) The Appellant's checking account balance as of February 1, 2023, is unknown.
- 6) The Respondent must reevaluate the Appellant's asset eligibility.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to deny MPAP benefits based on income ineligibility. The issue is **REMANDED** to the Respondent for proper determination of asset eligibility.

ENTERED this 4th day of May 2023.

Pamela L. Hinzman
State Hearing Officer