



**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**

June 29, 2023



RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1838

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: Leslie Riddle, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-1838

**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 June 21, 2023.

The matter before the Hearing Officer arises from the May 10, 2023 decision by the Respondent to terminate Medicaid benefits effective June 2023.

At the hearing, the Respondent appeared by Leslie Riddle, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's husband. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Chapter 4, Appendix A
- D-2 MAGI Medicaid Income Budget information
- D-3 Notice of Decision dated May 11, 2023

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 was a recipient of Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits.
- 2) The Respondent reviewed the Appellant's case in May 2023 and determined that the household income was excessive for MAGI Adult Medicaid benefits.
- 3) The Respondent determined that household income included \$1,548 per month in earned income from the Appellant's employment and \$2,953.90 per month in unearned income for her husband.
- 4) The income limit for a two-person MAGI Adult Medicaid Assistance Group is \$2,186 per month (Exhibit D-1)
- 5) The Respondent sent the Appellant a Notice of Decision on May 11, 2023, indicating that Medicaid benefits would be closed effective June 2023 based on excessive income (Exhibit D-3).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 23.10.4 states, in pertinent part:

As a result of the Affordable Care Act (ACA), the Adult Group was created, effective January 1, 2014. Eligibility for this group is determined using MAGI methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who are aged 19 or older and under age 65.

To be eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

West Virginia Income Maintenance Manual Chapter 3.7.3 states, in pertinent part:

The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer.

West Virginia Income Maintenance Manual Chapter 3.7.3, MAGI Household Needs Group (NG), states 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. In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse. The MAGI household of the pregnant woman also includes her unborn child(ren).

This methodology must be applied to each applicant in the MAGI household separately:

- STEP 1:** IS THE APPLICANT A TAX FILER (and will NOT be claimed as a tax dependent)?
IF NO: Move to **STEP 2**.
IF YES: The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer. This is known as the tax filer rule.
- STEP 2:** IS THE APPLICANT CLAIMED AS A TAX DEPENDENT ON SOMEONE ELSE'S TAXES?
IF NO: Move to **STEP 3**.
IF YES: Test against the three exceptions below. If the answer to any of these exceptions is "yes," then the applicant's MAGI household size must be calculated using STEP 3.
- The applicant is claimed as a dependent by someone other than a spouse or parent.
 - The applicant is a child under 19 who lives with both parents, but both parents do not expect to file taxes jointly.
 - The applicant is a child under 19 who is claimed as a tax dependent to a non-custodial parent(s).

If none of these exceptions are true, then the applicant's Medicaid household consists of the applicant, the tax filer claiming him as a dependent, this could be two people filing jointly, any other dependents in the tax filer's household, and the applicant's spouse if they reside together. This is known as the tax dependent rule.

DISCUSSION

Policy states that to be eligible for the MAGI Adult Medicaid Group, income must be equal to or below 133 percent of the Federal Poverty Level for the Needs Group size. The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer.

The Appellant's husband contended that Medicaid eligibility should have been based on a three-person household because he and his wife adopted their granddaughter in September 2022. The child has resided with them for about nine years and has been claimed as a dependent on their income taxes. The Appellant's husband did not dispute the Respondent's calculation of unearned

income, but stated that earned income stopped as the Appellant only worked in the months of October and November 2022. He testified that she has not been employed since.

The Respondent's representative testified that the Department was unaware that the child was being claimed as a dependent on the Appellant's taxes.

The Appellant testified that she has several medical issues for which she is receiving care. She stated that she received another letter from the Respondent indicating that her Medicaid would stop on July 1, 2023, instead of in June 2023. The Respondent's witness testified that the May 11, 2023, letter was correct to indicate that Medicaid would stop effective June 2023. She stated that the second letter was sent in regard to eligibility for another program. While the second letter also included Medicaid information, the May 11, 2023, notice included the correct Medicaid termination date.

It is unclear whether the Appellant completed a Medicaid redetermination form, whether the Respondent interviewed the Appellant in conjunction with the case review, or whether the Respondent completed a desk review based on preexisting information concerning the Appellant's household circumstances. The Appellant's husband testified that the Appellant's earned income ended in 2022 and that the couple had adopted a child in 2022; however, there was no evidence to corroborate this information and no testimony to demonstrate that it was considered by the Respondent in determining eligibility.

As the Appellant had income and household composition changes that were not considered by the Respondent in determining Medicaid eligibility, the Respondent's decision to terminate Medicaid benefits cannot be affirmed.

CONCLUSIONS OF LAW

- 1) The Appellant's MAGI Adult Medicaid benefits were terminated based on excessive income during a case review in May 2023.
- 2) The Respondent counted earned income for the Appellant from a source that allegedly stopped in 2022.
- 3) The Respondent did not consider a child the Appellant reportedly adopted in 2022 as part the Appellant's household composition.
- 4) Based on information provided during the hearing, the Respondent's decision to terminate Medicaid benefits based on excessive income cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate Medicaid benefits effective June 2023. The case is **REMANDED** to the Respondent for a determination of Medicaid eligibility based on the Appellant's current income and household composition.

ENTERED this 29th day of June 2023.

Pamela L. Hinzman
State Hearing Officer