



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

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

August 15, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1933

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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

Encl: Decision Recourse
Form IG-BR-29

CC: Carrie Casto, [REDACTED] DHHR

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

██████████

Appellant,

v.

Action Number: 23-BOR-1933

**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 July 5, 2023.

The matter before the Hearing Officer arises from the Respondent's May 30, 2023 decision to terminate the Appellant's Adult Medicaid benefits after June 30, 2023.

At the hearing, the Respondent was represented by Carrie Casto, Economic Services Supervisor, ██████████ DHHR. The Appellant appeared and represented himself. All those present were sworn in and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual (WVIMM) Chapter 3 Excerpt
- D-2 DHHR Notice, dated May 30, 2023
- D-3 WVIMM § 5.4 Excerpt
- D-4 Medicaid Review Form, dated May 15, 2023
- D-5 Notice, dated May 30, 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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant was a recipient of Adult Medicaid benefits for a one-person Assistance Group (AG).
- 2) On May 30, 2023, the Respondent issued a notice advising the Appellant that beginning July 1, 2023, his Adult Medicaid benefits would be terminated (Exhibit D-2).
- 3) The May 30, 2023 notice indicated the reason for the Appellant's Adult Medicaid termination was because the Appellant was "being evaluated for another type of this assistance" (Exhibit D-2).
- 4) The Respondent clarified during the hearing that the termination was based on the Appellant's enrollment in Medicare benefits.
- 5) At the time of the May 30, 2023 notice, the Appellant was 66 years old (Exhibit D-4).
- 6) On May 30, 2023, the Respondent issued a notice advising the Appellant that he was denied eligibility for Medicaid because the amount of his assets exceeded Medicaid eligibility guidelines (Exhibit D-5).
- 7) The May 30, 2023 notice reflected \$13,174.63 in liquid assets (Exhibit D-5).
- 8) The Medical Assistance Asset Limit reflected on the notice was \$2,000 (Exhibit D-5).
- 9) The May 30, 2023 notice advised that [REDACTED] "does not meet eligibility requirements for this assistance" (Exhibit D-2).
- 10) The Respondent evaluated the Appellant for other types of Medicaid benefits, including SSI-Related Medicaid benefits.
- 11) The Appellant's Medicaid coverage was due for review by June 30, 2023. He was required to submit his Medicaid Review form by June 1, 2023 (Exhibit D-4).
- 12) Under Section 8 *Assets*, the instructions read, "Cross out any information that is not correct about members of your household. Write in new information" (Exhibit D-4).
- 13) The Appellant crossed out "13174.63," and handwrote "12,674" (Exhibit D-4).
- 14) The Appellant submitted his Medicaid Review form on May 24, 2023 (Exhibit D-4).
- 15) The Appellant reported his household consisted of two persons, including himself and [REDACTED] (Exhibit D-4).
- 16) The Appellant reported \$12,674 in savings account assets (Exhibit D-4).

APPLICABLE POLICY

Families First Coronavirus Response Act and Fiscal Year (FY) 2023 Omnibus Appropriations Bill provide in relevant sections:

During the COVID-19 PHE, provisions were stipulated permitting the Respondent to provide continuous coverage to Medicaid recipients during the PHE. On December 23, 2022, Medicaid continuous enrollment was set to end on April 1, 2023.

West Virginia Income Maintenance Manual (WVIMM) § 1.2.2.B *Redetermination Process* provides in relevant sections:

Periodic reviews of total eligibility for recipients are mandated by federal law.

WVIMM §§ 3.7 *Adult Group* through 3.7.1.B *Who Cannot be Included?* provides in relevant sections:

To be eligible for Medicaid Adult Group benefits, individuals must be age 19 or older and under age 65 and cannot be entitled to or enrolled in Medicare Part A or B.

WVIMM §§ 3.17.1 *The Assistance Group* through 3.17.1.B *Who Cannot be Included?* provides in relevant sections:

Only the aged, blind, or disabled individual and his eligible aged, blind, or disabled spouse must be included.

WVIMM §§1.18 *Supplemental Security Income (SSI)- Related Medicaid (Aged, Blind, Disabled)* provides in relevant sections:

Aged means individuals aged 65 and older.

WVIMM § 23.11.3 *SSI-Related* provides in relevant sections:

Individuals who meet the SSI definition of aged, blind, or disabled are eligible for Medicaid SSI-Related benefits when countable assets do not exceed the limits described in Chapter 5. Aged means 65 years or over.

WVIMM § 5.4 *Maximum Allowable Assets* provides in relevant sections:

For SSI Medicaid, AFDC-Related, Medicaid, PAC, and CDCSP programs, the maximum allowable asset limit for a one-person AG is \$2,000. The asset limit for a two-person AG is \$3,000.

WVIMM §§ 5.5.4 and 5.5.4.A *Bank Accounts and Savings Accounts, Christmas Clubs, Checking Accounts, CDs* provides in relevant sections:

Bank accounts and savings accounts are countable assets for determining Medicaid eligibility. The current month's income deposited in accounts is not counted as an asset for that month.

WVIMM § 23.10.4 *Adult Group* provides in relevant sections:

To be eligible for Adult Group Medicaid benefits, the individual may not be entitled to or enrolled in Medicare Part A or B and meet income eligibility requirements described in Chapter 4.

WVIMM §§ 10.6.5.A *Assistance Group (AG) Closures* and § 10.6.5.B *Consideration of Eligibility Under Other Coverage Groups* provides in relevant sections:

When the client's circumstances change to the point that he becomes ineligible, the AG is closed. The Department must consider the individual's Medicaid eligibility under other coverage groups before notifying the individual that Medicaid eligibility will end. Advanced notice is required for any adverse action.

DISCUSSION

The Respondent terminated the Appellant's Adult Medicaid benefits, evaluated him for other Medicaid benefits eligibility, and determined he was ineligible for Medicaid benefits. The Appellant contested the Respondent's decision to terminate his Adult Medicaid benefit eligibility.

Pursuant to the COVID-19 PHE-related procedures, the Appellant received continuous Medicaid eligibility during the COVID-19 PHE. After April 1, 2023, the Respondent was permitted to resume considering all eligibility criteria determining Medicaid eligibility.

The Board of Review is required to follow the policy and cannot change the policy or award eligibility beyond the circumstances provided in the policy. During the hearing, the Appellant argued that he could not financially afford his medical treatments. This Hearing Officer is unable to grant the Appellant relief by awarding Adult Medicaid eligibility exceptions beyond the policy provisions.

The Respondent had to prove by a preponderance of the evidence that the Appellant was not eligible for Adult Medicaid benefits and that the Respondent considered the Appellant's Medicaid eligibility under other coverage groups before notifying the Appellant his Medicaid eligibility would end.

Adult Medicaid

To be eligible for Adult Medicaid, the Appellant had to be between the ages of 19 and 65. During the hearing, the Respondent's representative testified that individuals entitled to or enrolled in Medicare are not eligible for Adult Medicaid benefits. The preponderance of the evidence revealed that the Appellant did not fall within the eligible age range. Further, individuals aged 65 and older are entitled to enroll in the Medicare program, which renders the individual ineligible for Adult Medicaid. The Respondent correctly terminated the Appellant's Adult Medicaid eligibility on this basis.

Eligibility Under Other Coverage Groups

The Respondent was required to consider his eligibility for other Medicaid coverage groups. During the hearing, the Respondent's representative testified that the Appellant was evaluated for other types of Medicaid benefits. The Respondent's representative testified that the Appellant was evaluated for SSI-related Medicaid benefit eligibility and was ineligible because his assets exceeded the Medicaid eligibility asset limit.

While the evidence indicated that there was a discrepancy between the Appellant's reported asset amount and the amount of assets considered, both amounts exceed the Medicaid income eligibility limit. The Appellant did not refute that his assets exceeded the Medicaid eligibility limit. The preponderance of evidence revealed that the Respondent considered the Appellant for other Medicaid coverage groups before terminating his Adult Medicaid benefits.

During the hearing, the Appellant testified he required medical treatment he could not afford. Pursuant to the policy, when an individual is medically needy and cannot afford to pay their medical bills, they may be eligible for Medically Needy Income Level (MNIL) benefits to assist with the cost of incurring medical expenses. Pursuant to the policy, to qualify for MNIL benefits, criteria must be met for AFDC or SSI-Related Medicaid eligibility. The preponderance of the evidence revealed that the Appellant did not meet the eligibility criteria for these Medicaid coverage groups.

CONCLUSIONS OF LAW

- 1) To be eligible for Adult Medicaid benefits, the individual must be age 19 or older and under age 65.
- 2) The preponderance of the evidence demonstrated that the Appellant was over age 65.
- 3) The Respondent correctly terminated the Appellant's Adult Medicaid benefit eligibility.
- 4) To be eligible for SSI-Related Medicaid benefits, the Appellant's assets could not exceed \$2,000.

- 5) The preponderance of the evidence demonstrated that the amount of the Appellant's assets exceeded the Medicaid income eligibility limit.
- 6) The Respondent correctly denied the Appellant eligibility for SSI-Related Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's Adult Medicaid eligibility.

Entered this 15th day of August 2023.

Tara B. Thompson, MLS
State Hearing Officer