



**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**

September 19, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-2138

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 ensure 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: Monica Emery, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-2138

**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 August 8, 2023.

The matter before the Hearing Officer arises from the Respondent's May 19, 2023 decision to terminate the Appellant's Adult Medicaid benefits, effective June 1, 2023.

At the hearing, the Respondent was represented by Monica Emery, ██████████ DHHR. The Appellant appeared and represented herself. All those present were sworn in and the following documents were admitted into evidence.

Department's Exhibits:

None

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.
- 2) On April 17, 2023, the Respondent issued an eligibility review form to the Appellant that stipulated the form must be submitted by May 1, 2023.
- 3) On May 19, 2023, the Respondent issued a notice advising the Appellant that her Adult Medicaid benefits would close after May 2023 because she did not complete an Eligibility Review.
- 4) The Appellant did not submit a Medicaid eligibility review form by May 1, 2023.
- 5) The Appellant's Adult Medicaid benefits were terminated, effective June 1, 2023.

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, regardless of income, 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.... Failure by the client to complete a redetermination will result in termination of benefits.

WVIMM § 1.2.4 *Client Responsibility* provides in relevant sections:

The client must provide complete and accurate information about her circumstances so that the Worker is able to make a correct determination about her eligibility.

WVIMM §§ 1.2.11 *Redeterminations* and 1.2.12.B.1 provide in relevant sections:

The client may choose to complete the redetermination by mail, online using WV PATH, or in person.

WVIMM § 9.3.1 *Advance Notice Requirements* provides in relevant sections:

A client must receive advance notice of situations involving adverse action. The advance notice requirement is that notification be mailed to the client at least 13 days before the first day of the month in which the benefits are affected.

WVIMM § 9.3.1.C *Beginning and Ending of the Advance Notice Period* provides in relevant sections:

The 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed. If the 13-day notice period ends on a weekend or holiday, the action is taken on the first subsequent workday.

WVIMM § 9.3.1.D *Date Adverse Action May Be Taken* provides in relevant sections:

Usually, the Worker will act in the eligibility system before the 13-day advance notice begins, for the change to be effective on the first day of the following month.

DISCUSSION

The Respondent terminated the Appellant's Adult Medicaid benefits on June 1, 2023. On July 6, 2023, the Board of Review received a hearing request from the Appellant. The hearing request was stamped and received by the Respondent on June 26, 2023. The Appellant requested the hearing to protest the Respondent's May 19, 2023 decision to terminate her Adult Medicaid benefits because she failed to complete an eligibility review.

During the hearing, the Respondent's representative testified that the Appellant was denied eligibility because she exceeded the income eligibility limit. The Respondent's representative testified that the Appellant was issued a notice on July 7, 2023, that advised her she was ineligible for Medicaid because her income exceeded the eligibility limit. Because the Respondent's July 7, 2023 denial of the Appellant's Medicaid eligibility occurred as a separate action after the submission of the Appellant's hearing request, hearing testimony regarding the Appellant's subsequent Medicaid ineligibility determination was given little weight by the Hearing Officer. During the hearing, instructions were provided to the parties regarding the procedural steps should the Appellant wish to appeal the Respondent's July 7, 2023 decision.

The Respondent bears the burden of proof and had to prove by a preponderance of evidence that the Appellant's Adult Medicaid benefits were correctly terminated because she failed to complete her Adult Medicaid eligibility review by the due date.

During the hearing, the Appellant did not dispute that she failed to complete the eligibility review form by the due date and argued that she did not receive sufficient notice from the Respondent before terminating her Adult Medicaid benefits. The Appellant argued that she should have received at least thirty days' advanced notice before having her Adult Medicaid benefits terminated.

Termination for a Failure to Complete an Eligibility Review

During the hearing, the Respondent's worker testified that the eligibility review form was mailed to the Appellant on April 17, 2023. The Respondent's worker testified that the Appellant was required to complete her eligibility review form by May 1, 2023. The Appellant did not dispute receiving notification of her responsibility to submit her eligibility review form. During the hearing, the Appellant testified that she did not submit the review form by May 1, 2023. The Appellant argued that she had barriers communicating with the Respondent's office during May 2023 and had left messages with the office to complete her review. The policy stipulates that an eligibility review form may be submitted by mail, in person, or online. The Appellant's communication barriers with the Respondent in May 2023, after her eligibility review form was due, do not constitute good cause for failing to submit her eligibility review by May 1, 2023.

Advanced Noticing Requirements

According to the policy, the Respondent is required to issue thirteen days advanced notice before terminating the Appellant's Adult Medicaid benefits. The Respondent's worker testified that the Appellant's Adult Medicaid benefits ended June 1, 2023. The policy stipulates that the 13-day advance notice period begins with the date shown on the notification letter and ends after the 13th calendar day has elapsed. The Appellant's thirteen-day advanced notice period began on May 19, 2023, the day of the termination notice, and ended on May 31, 2023. The June 1, 2023 effective date of Adult Medicaid ineligibility occurred after the thirteen-day advanced notice period was exhausted. Although the Appellant argued she should have received a thirty-day advanced notice before her Adult Medicaid eligibility was terminated, the Respondent's advanced noticing period was implemented in compliance with the policy.

CONCLUSIONS OF LAW

- 1) When an Adult Medicaid recipient fails to complete an eligibility review, the Respondent may terminate the recipient's Adult Medicaid benefits.
- 2) The preponderance of the evidence revealed that the Appellant did not submit her Medicaid eligibility review by the May 1, 2023 due date.
- 3) The Respondent was required to provide the Appellant with thirteen days advance notice before terminating her Adult Medicaid benefits.
- 4) The preponderance of the evidence revealed that the Respondent provided the Appellant with advanced notice thirteen days before her June 1, 2023 Adult Medicaid termination was effective.
- 5) The Respondent correctly acted to terminate the Appellant's Adult Medicaid benefits, effective June 1, 2023, because she failed to submit her Medicaid eligibility review by the May 1, 2023 due date.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's Adult Medicaid benefits, effective June 1, 2023.

Entered this 19th day of September 2023.

Tara B. Thompson, MLS
State Hearing Officer