



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

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

**Christopher G. Nelson  
Interim Inspector General**

September 13, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 23-BOR-2170

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,

Lori Woodward, J.D.  
Certified State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Ann Hubbard, BFA, WV DHHR

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

██████████,

**Appellant,**

v.

**ACTION NO.: 23-BOR-2170**

**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 September 13, 2023, on an appeal filed July 10, 2023.

The matter before the Hearing Officer arises from the Respondent's May 15, 2023 decision to close Adult Medicaid (MAGI) benefits.

At the hearing, the Respondent appeared by Ann Hubbard, Economic Services Supervisor. The Appellant appeared *pro-se*. The witnesses were placed under oath and the following documents were admitted into evidence:

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Completed Medicaid / WV CHIP Coverage review (MREV) received by the local office on April 28, 2023
- D-3 Screen print of the Appellant's eRAPIDS MAGI Medicaid Income Budget screen
- D-4 Notice of closure (EDC1) dated May 15, 2023
- D-5 West Virginia Income Maintenance Manual, Chapter 4, §4.7.4

**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 was a recipient of Adult Medicaid benefits in an assistance group of one.
- 2) On April 17, 2023, the Respondent issued a Medicaid/WV CHIP (MREV) review form for the Appellant to complete and return by May 1, 2023. (Exhibit D-2)
- 3) The Appellant returned the form prior to the deadline. (Exhibit D-2)
- 4) The Appellant's submitted MREV showed he has weekly earned income of \$500.00. (Exhibit D-2)
- 5) The Appellant receives retirement income from the Social Security Administration (SSA) of \$1,377 per month. (Exhibit D-2)
- 6) The Appellant's total monthly gross income is \$3,527. (Exhibit D-1)
- 7) The maximum monthly gross income limit for Adult Medicaid is \$1,616, or 133% Federal Poverty Level (FPL).
- 8) On May 15, 2023, the Respondent sent notification to the Appellant that his Adult Medicaid benefits would terminate after May 31, 2023 because he is over the income limit. (Exhibit D-4)
- 9) The Appellant is over 65 years old and receives Medicare benefits.

### **APPLICABLE POLICY**

Families First Coronavirus Response Act (FFCRA) and Fiscal Year (FY) 2023 Omnibus Appropriations Bill permitted the Respondent to provide continuous coverage to Medicaid recipients during the declared public health emergency (PHE). The Medicaid continuous enrollment ended on April 1, 2023.

WV IMM, Chapter 23, §23.10.4, ADULT GROUP, explains, in part, that the income limit is 133% FPL (Federal Poverty Level). As a result of the ACA (Affordable Care Act), the Adult Group was created effective January 1, 2014. Eligibility for this group is determined using Modified Adjusted Gross Income (MAGI) methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who meet the following requirements:

- They are age 19 or older and under age 65;
- They are not eligible for another categorically mandatory Medicaid coverage group:

- o SSI
- o Deemed SSI
- o Parents/Caretaker Relatives
- o Pregnant Women
- o Children Under Age 19
- o Former Foster Children
- They are not entitled to or enrolled in Medicare Part A or B; and
- The income eligibility requirements described in Chapter 4 are met.

**WV IMM, Chapter 4, §4.7.4, *Determining Eligibility*:**

The applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage groups.

- Step 1** Determine the MAGI-based gross monthly income for each MAGI household income group (IG).
- Step 2:** Convert the MAGI household's gross monthly income to a percentage of the FPL by dividing the current monthly income by 100% of the FPL for the household size. Convert the result to a percentage. If the result from Step 2 is equal to or less than the appropriate income limit (133% FPL), no disregard is necessary, and no further steps are required.
- Step 3:** If the result from Step 2 is greater than the appropriate limit (133% FPL), apply the 5% FPL disregard by subtracting five percentage points from the converted monthly gross income to determine the household income. Step 4: After the 5% FPL income disregard has been applied, the remaining percent of FPL is the final figure that will be compared against the applicable modified adjusted gross income standard for the MAGI coverage groups.

**WV IMM, Chapter 4, Appendix A, Income Limits**

133% of the FPL for a one-person AG: \$1,616

**DISCUSSION**

Pursuant to the COVID-19 Public Health Emergency (PHE)-related procedures, Medicaid recipients received continuous coverage during the COVID-19 PHE without consideration of all routine eligibility criteria. After April 1, 2023, the Respondent was permitted to resume considering all eligibility criteria when determining Medicaid eligibility.

The testimony presented showed that the Appellant had been receiving Adult Medicaid coverage in a one-person assistance group since April 2021. On April 17, 2023, the Respondent issued a Medicaid/WV CHIP (MREV) review form for the Appellant to complete and return by May 1, 2023. The Appellant returned the form indicating that he received unearned income from the SSA in the amount of \$1,377 per month in addition to earned income of \$500 weekly. The Respondent's worker calculated these amounts which totaled \$3,527.00 per month. Policy sets forth the maximum monthly gross income limit for Adult Medicaid for an AG of one is to be at or below 133% of the FPL, or \$1,616. On May 15, 2023, the Respondent sent notification to the

Appellant that his Adult Medicaid benefits would terminate after May 31, 2023 because he is over the income limit.

The Appellant does not contest the amount of SSA retirement income he receives per month. However, the Appellant stated that he had mistakenly left the earned income included on his review form. The Appellant explained that because of his hospitalization in November 2022, he has not been back to work since that time. Apparently, the Appellant subsequently applied for Medicare Premium Assistance (MPA) program benefits and provided an employer statement that he had not been employed since November 8, 2022.

Without the inclusion of the earned income, the Appellant would be income eligible for Adult Medicaid benefits. However, because the Appellant is over the age of 65 and receives Medicare coverage, he does not meet the eligibility criteria for the Adult Medicaid program. The Respondent's decision to close the Appellant's Adult Medicaid benefits is affirmed.

Of note, the Appellant indicated that his MPA application had been denied. As the parties agreed at the onset of this hearing the issue to be decided was the closure of his Adult Medicaid benefits, the MPA denial was not considered. This decision does not preclude the Appellant from timely requesting a hearing on the issue of the MPA denial.

### **CONCLUSION OF LAW**

Whereas the Appellant is over the age of 65 and enrolled in Medicare, he is not eligible for Adult Medicaid benefits, per policy.

### **DECISION**

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

**ENTERED this 13<sup>th</sup> day of September 2023.**

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Lori Woodward, Certified State Hearing Officer