



**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**

October 26, 2023



RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-2780

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Gilda Bodrogi, DHHR

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

IN THE MATTER OF:

ACTION NO.: 23-BOR-2780

[REDACTED],

Appellant,

v.

**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 [REDACTED]. 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 October 12, 2023, on a timely appeal filed on September 7, 2023.

The matter before the Hearing Officer arises from the September 6, 2023 decision by the Respondent to terminate Medicaid benefits.

At the hearing, the Respondent appeared by Gilda Bodrogi. The Appellant was self-represented. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|---|
| D-1 | Transitional Medicaid Periodic Report form, dated May 22, 2023 |
| D-2 | Screen print of data system tracking of documents received by the Respondent regarding the Appellant's case |
| D-3 | Transitional Medical Assistance notice, dated August 18, 2023 |
| D-4 | Appellant's pay stubs, pay dates June 23, 2023, and July 7, 2023 |

- D-5 MAGI Medicaid Income Budget screen print from the Respondent's data system regarding the Appellant's case; Excerpt of Historical Notice and Letter Results screen print
- D-6 West Virginia Income Maintenance Manual (WVIMM), Chapter 4, Appendix A
- D-7 WVIMM, Chapter 4 excerpt

Appellant's Exhibits:

- A-1 Email cover sheet; Appellant's pay stubs, pay dates September 1, 2023, September 15, 2023, and September 29, 2023

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 Medicaid benefits in an assistance group (AG) of two (2). (Exhibit D-5)
- 2) The Respondent mailed the Appellant a form (Exhibit D-1) dated May 22, 2023, for consideration of Transitional Medicaid.
- 3) This notice (Exhibit D-1) reads in pertinent part, "If you want to be considered for Transitional Medicaid, please complete and return this form. Please provide the information below and return the entire letter to the local DHHR office shown at the top of this letter. You must return it on or before 06/21/23. If you do not return this letter by the due date, you may become ineligible for any other Transitional Medicaid coverage the Department provides after the first six (6) months..."
- 4) The notice (Exhibit D-1) asked the Appellant to provide "Wages Before Withholding" and "Day Care Costs for Children and/or Disabled Adults" for the months of March 2023, April 2023, and May 2023.
- 5) The Appellant did not return the form (Exhibit D-1) by the due date or otherwise complete a Medicaid redetermination.
- 6) The Appellant applied for School Clothing Allowance (SCA) – another program administered by the Respondent – and submitted income verification (Exhibit D-4) with the SCA application.

- 7) The Appellant's monthly income, based on the verification (Exhibit D-4) provided for the SCA application, is \$2405.69 (Exhibit D-5) – in excess of the income \$2186 income limit for Medicaid (Exhibits D-5 and D-6).
- 8) The Respondent mailed the Appellant a notice dated August 18, 2023 (Exhibit D-3), advising, "You will receive your last Medical card in August 2023," and provided the reason for this action as "You failed to return a completed Periodic Report Form that was due by 06/21/23. Failure to return this form reporting your gross income and day care expenses results in closure of Medical Assistance."

APPLICABLE POLICY

The policy regarding the eligibility determination process is found in the West Virginia Income Maintenance Manual (WVIMM), Chapter 1, §1.2.2, and at §1.2.2.B, provides in part:

Periodic reviews of total eligibility for recipients are mandated by federal law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination will result in termination of benefits...

Chapter 4 of the WVIMM details income, and at §4.7 provides, in part:

The Modified Adjusted Gross Income (MAGI) methodology is used to determine financial eligibility for the following Medicaid eligibility groups:

- Parents and Other Caretaker Relatives
- Pregnant Women
- Children Under 19
- Adult Group

The income limit for the MAGI Medicaid Adult Group is set at §23.10.4 of the WVIMM at 133% of the Federal Poverty Level (FPL).

At §4.7.2.B, the WVIMM lists allowable deductions subtracted from income in the MAGI Medicaid Adult Group eligibility determination process. This list does not include child support deductions.

At §4.7.3, the WVIMM provides:

The only allowable income disregard is an amount equivalent to five percentage points of 100% of the Federal Poverty Level (FPL) for the applicable MAGI household size.

The 5% disregard is not applied to every MAGI eligibility determination and should not be used to determine the MAGI coverage group for which an individual may

be eligible. The 5% FPL disregard will be applied to the highest income MAGI income limit for which an individual may be determined eligible.

DISCUSSION

The Appellant requested a fair hearing to appeal the Respondent's decision to terminate the Appellant's Medicaid benefits for failure to complete a review. For the Respondent to prove they correctly took this action, it must show by a preponderance of the evidence that the Appellant failed to complete a required review of eligibility.

The Appellant was receiving Medicaid benefits in a two (2) person AG and was required to complete an eligibility review. The Respondent mailed the Appellant a form to complete and return as part of the review process. The Appellant did not return the required form by the set deadline and the Respondent mailed notification of Medicaid closure for the missed review.

The Appellant separately applied for SCA, another program administered by the Respondent, and the income submitted for the SCA application was used to determine MAGI Medicaid Adult Group income eligibility. This determination arrived at a monthly income amount of \$2405.69 for the Appellant's household, which exceeds the program income limit. The limit for an AG of 2 is 133% of the Federal Poverty Level (FPL), or \$2186 at the time of determination. The Appellant did not dispute that she failed to complete and return the review form, and she did not dispute the income calculations. Although the notice (Exhibit D-3) sets the basis for the Medicaid termination as the failure to complete a review, the Appellant believed the termination was also due to excessive income.

The Appellant did not dispute the Respondent's calculation of gross income, but she did ask about a deduction for child support. There was no verification of child support amounts provided to the Respondent, or provided as evidence at the hearing, but the applicable Medicaid policy does not allow a deduction for child support payments. The Appellant's monthly household income, when expressed as a percentage of the Federal Poverty Level (shown in Exhibit D-5: \$2405.69, divided by 100% FPL for an AG of 2 – or \$1644 – equals 146.33% FPL. Exhibit D-5 shows the amount rounded to 146.30% FPL) is over the program limit. The gap between the Appellant's income and the limit, when both are expressed as a percentage, exceeds 5%. Policy allows a MAGI based income disregard of 5%, which would result in comparing 141.33% FPL (146.33% - 5%) to the income limit of 133% FPL.

The Respondent has shown that the Appellant failed to complete a required Medicaid redetermination of eligibility. The Respondent has shown that income submitted in connection with a SCA application would have been excessive for the MAGI Adult Group Medicaid, even if the required review were completed. The Respondent's action to terminate Medicaid benefits to the Appellant is affirmed.

CONCLUSIONS OF LAW

- 1) Because the Appellant did not complete a required redetermination of Medicaid eligibility, the Respondent correctly terminated the Appellant's Medicaid benefits.

- 2) Because the Appellant had provided income for a separate program application which is over the limit for a two (2) person AG for the MAGI Medicaid Adult Group category, the Respondent also was correct to terminate Medicaid benefits due to excessive income.

DECISION

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

ENTERED this _____ day of October 2023.

**Todd Thornton
State Hearing Officer**