



**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**

October 11, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 23-BOR-2825

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-2825**

**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 October 3, 2023, on an appeal filed September 8, 2023.

The matter before the Hearing Officer arises from the Respondent's September 11, 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 Notice of closure, dated August 18, 2023
- D-3 Completed Medicaid/WV CHIP Coverage review (MREV) received by the local office on August 14, 2023
- D-4 Screen print eRAPIDS Data Exchange – SSA Benefit Details, match date March 6, 2023
- D-5 Notice of denial dated September 11, 2023
- D-6 West Virginia Income Maintenance Manual (WV IMM), Chapter 4, §4.7.4
- D-7 Income Chart, desk guide

**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 (AG) of one.
- 2) On July 17, 2023, the Respondent issued a Medicaid/WV CHIP (MREV) review form for the Appellant to complete and return by August 31, 2023. (Exhibit D-3)
- 3) The Appellant returned the form on August 14, 2023, prior to the deadline. (Exhibit D-3)
- 4) The Respondent issued a closure of Adult Medicaid benefits on August 18, 2023, citing failure to complete an eligibility review. (Exhibit D-2)
- 5) On September 8, 2023, the Respondent processed the Appellant's Medicaid review. (Exhibit D-1)
- 6) The Appellant receives monthly Social Security benefits in the amount of \$2,185. (Exhibit D-4)
- 7) The maximum monthly gross income limit for Adult Medicaid is \$1,616, or 133% Federal Poverty Level (FPL).
- 8) On September 11, 2023, the Respondent sent notification to the Appellant that her Adult Medicaid benefits will stop effective August 31, 2023, because she is over the income limit. (Exhibit D-5)

### **APPLICABLE POLICY**

**WV IMM, Chapter 23, §23.10.4, ADULT GROUP**, explains in part:

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, §4.7.3, *MAGI-BASED INCOME DISREGARD*, states:**

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% FPL 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 MAGI income limit for which an individual may be determined eligible.

**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**

The Appellant had been receiving Adult Medicaid coverage in a one-person AG. On July 17, 2023, the Respondent issued a Medicaid/WV CHIP (MREV) review form for the Appellant to complete and return by August 31, 2023. The Appellant returned the form on August 14, 2023. Because the Respondent failed to act on the timely submission of the Appellant's MREV review, on August 18, 2023, the Respondent sent notification of Adult Medicaid closure due to the Appellant's failure to complete an eligibility review. The Appellant's review was not processed by the Respondent until September 8, 2023, at which time it was determined that she was over the allowable income limit for a one-person AG with monthly Social Security benefits in the amount of \$2,185. On September 11, 2023, the Respondent sent notification that the Appellant's Adult Medicaid benefits would close on August 31, 2023 due to being over the income limit. It was

noted that the Appellant's Adult Medicaid benefits were reopened for September and October coverage pending the outcome of the hearing. Therefore, the incorrect begin date of closure did not affect the Appellant's opportunity for a hearing and because her benefits were reopened pending the outcome of the hearing, this error did not adversely prejudice the Appellant's due process rights.

The Appellant did not contest the amount of the monthly income used to calculate her eligibility. The Appellant stated that she was undergoing cancer treatments and needed Medicaid coverage. The Board of Review does not have the authority to change policy. Because the Respondent correctly calculated the Appellant's income to be over the allowable limit for Adult Medicaid eligibility, the Respondent's decision to close the Appellant's Adult Medicaid benefits is affirmed.

### **CONCLUSIONS OF LAW**

- 1) The income limit for a one-person AG for Adult Medicaid benefits is \$1,616.
- 2) The Appellant's gross monthly income is \$2,185.
- 3) The Appellant's income is excessive to continue receiving Adult Medicaid benefits.

### **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 11<sup>th</sup> day of October 2023.**

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Lori Woodward, Certified State Hearing Officer