



**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 5, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-2873

[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,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

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

cc: Loria Avis, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-2873**

**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 5, 2023, on an appeal filed September 18, 2023.

The matter before the Hearing Officer arises from the September 7, 2023 decision by the Respondent to terminate the Appellant's Adult Medicaid benefits.

At the hearing, the Respondent appeared by Loria Avis, Economic Service Worker. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Fair Hearing Request
- D-3 MREV Redetermination Form dated August 21, 2023
- D-4 Notice of Denial dated September 7, 2023\*
- D-5 West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-6 Computer printout of MAGI Medicaid Income Budget
- D-7 Computer printout of Case Comments dated September 6, 2023

**Appellant's Exhibits:**

None

\*Missing pages for exhibit

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 assistance.
- 2) The Appellant is the only member of her household.
- 3) The Appellant completed an eligibility redetermination for Adult Medicaid benefits on August 21, 2023. (Exhibit D-3)
- 4) The Appellant reported employment with Dignity and self-attested her income of \$1216.00 every two weeks. (Exhibit D-3)
- 5) The Appellant's monthly gross income was determined to be \$2614.40. (Exhibit D-6)
- 6) The income limit for Adult Medicaid assistance is \$1616.00 monthly. (Exhibit D-5)
- 7) On September 7, 2023, the Respondent issued notice to the Appellant (Exhibit D-4) informing her that her Adult Medicaid benefits would terminate effective September 30, 2023 because her income exceeded the income limits for the program.
- 8) The Appellant resubmitted income verifications indicating a biweekly pay amount of \$1267.00.
- 9) The revised income information exceeded the income limit for Adult Medicaid assistance.

**APPLICABLE POLICY**

**West Virginia Income Maintenance Manual Chapter 3.7.3** states, in pertinent part:

The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer.

**West Virginia Income Maintenance Manual Chapter 4.7.1** documents in part:

Income of each member of the individual's MAGI household is counted.

**West Virginia Income Maintenance Manual Chapter 4.7.4** documents in pertinent part:

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.

**West Virginia Income Maintenance Manual Chapter 4, Appendix A**, documents in part:

For a one-person Assistance Group, 133% of the FPL is \$1616

For a one-person Assistance Group, 100% of the FPL is \$1215

**West Virginia Income Maintenance Manual Chapter 7.2.3** documents in part:

The primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperate in obtaining necessary verifications, with an exception being that a client must never be asked to provide verification that he is or is not either a fleeing felon or a probation/parole violator. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information. Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

For Modified Adjusted Gross Income (MAGI) Medicaid Coverage Groups and WVCHIP Only:

- Client self-attestation is verified by electronic data sources.
- The client must not be required to provide verification unless information cannot be obtained electronically or self-attestation, and electronic data sources are not reasonably compatible. See Section 7.2.5 below. Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in one of the following:
  - Denial of the application
  - Closure of the assistance group (AG)
  - Determination of ineligibility
  - Disallowance of an income deduction or an incentive payment

**West Virginia Income Maintenance Manual Chapter 7.2.5B** documents in pertinent part:

Eligibility determinations for Medicaid and WVCHIP will be based, to the maximum extent possible, on applicant self-attestation verified by information obtained from electronic data sources.

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

During the COVID-19 Public Health Emergency (PHE), provisions were stipulated permitting the Respondent to provide continuous coverage to Medicaid recipients, regardless of income, during the PHE. On December 23, 2022, the end of Medicaid continuous enrollment was set as April 1, 2023.

### **DISCUSSION**

Eligibility for MAGI Medicaid assistance is established, when a household's countable income is equal to or below 133% of the Federal Poverty Level for the appropriate needs group size.

The Respondent determined that the Appellant's countable income exceeded the income limits set forth by policy and terminated the Appellant's eligibility for MAGI Medicaid effective October 1, 2023. The Respondent must prove by a preponderance of the evidence that the household's countable income exceeded 133% of the Federal Poverty Level or \$1616 per month.

Upon conclusion of the Public Health Emergency, the Appellant's Medicaid assistance was subject to eligibility redetermination. In August 2023, the Appellant completed an eligibility redetermination and self-attested her income from employment with Dignity of \$1216.00 biweekly. The Respondent determined the Appellant's monthly gross income to be \$2614.40

(\$1216 multiplied by 2.15). The Appellant's gross monthly income is 215% of the Federal Poverty Level (\$2614.40/1215 100% Federal Poverty Level=2.15 or 215% of Federal Poverty Level. The Appellant's total gross monthly income exceeded 133% of the Federal Poverty Level and her Medicaid benefits were terminated.

The Appellant testified that she earned more income prior to the COVID-19 pandemic and maintained eligibility for Medicaid assistance. The Appellant questioned why she currently earns less and has been denied eligibility for Medicaid assistance. After the Notice of Denial (Exhibit D-4) was issued on September 7, 2023, the Appellant provided additional income verifications documenting a biweekly pay amount of \$1267.00. The monthly gross income of the new income was determined to be \$2724.05. The new gross monthly income was 224% of the Federal Poverty Level (\$2724.05/1215 100% Federal Poverty Level=2.24 or 224% of Federal Poverty Level). The Appellant's total gross monthly income exceeded 133% of the Federal Poverty Level.

Medicaid eligibility determinations are based on applicant self-attestation. Evidence presented clearly demonstrates that the Appellant's income exceeded the income limits set forth by policy; therefore, the Respondent's decision to terminate Medicaid benefits is affirmed.

### **CONCLUSIONS OF LAW**

- 1) The income limit for a one-person assistance group for Adult Medicaid benefits is 133% of the Federal Poverty Level or \$1616.
- 2) Medicaid eligibility redeterminations are based on an applicant's self-attested information verified by electronic data sources.
- 3) The Appellant's self-attested monthly gross income of \$2614.40 exceeded the income limits set forth by policy.
- 4) The Appellant's revised monthly gross income of \$2724.05 exceeded the income limits set forth by policy.

### **DECISION**

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

**ENTERED this \_\_\_\_\_ day of October 2023.**

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Eric L. Phillips  
**State Hearing Officer**