



**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 31, 2023



RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-3009



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: Paul Patrick, BFA, WVDHHR

P.O. Box 1736 • Romney, WV 26757
304-822-6900 • <https://www.wvdhhr.org/oig/bor.html> •
Eric.L.Phillips@wv.gov • OIGBOR@WV.GOV

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

██████████,

Appellant,

v.

Action Number: 23-BOR-3009

**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 convened on October 26, 2023, on an appeal filed September 27, 2023.

The matter before the Hearing Officer arises from the September 18, 2023 decision by the Respondent to terminate the Appellant's Medicaid benefits.

At the hearing, the Respondent appeared by Paul Patrick, Economic Services Supervisor. The Appellant appeared by his Attorney-In-Fact and father, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary and Printout of case comments for September 27, 2023-September 28, 2023
- D-2 Notice of Decision dated September 18, 2023
- D-3 Notice of Decision dated September 28, 2023

Appellant's Exhibits:

- A-1 Letter from ██████████ R.N. ██████████ Healthcare dated July 12, 2023
- A-2 Letter from ██████████ MCS Coordinator, ██████████ dated October 11, 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 is a recipient of Adult Medicaid assistance.
- 2) The Appellant is the only member of his assistance group.
- 3) During the COVID-19 Public Health Emergency (PHE) continuous coverage was provided to all Medicaid recipients, regardless of income.
- 4) PHE continuous coverage for Medicaid recipients expired on April 1, 2023.
- 5) The Appellant was required to complete a recertification for assistance by September 30, 2023.
- 6) The Appellant completed a recertification for assistance on September 27, 2023. (Exhibit D-1)
- 7) The Appellant receives \$1844.00 monthly in Social Security benefits. (Exhibit D-1)
- 8) The income limit for Adult Medicaid assistance is \$1616.00 monthly.
- 9) On September 28, 2023, the Respondent issued notice to the Appellant (Exhibit D-3) advising him that his income exceeded the income limit for the program.

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

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 September 30, 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 September 2023, the Appellant completed an eligibility redetermination and reported his monthly income from Social Security in the amount of \$1844.00.

The Appellant's gross monthly income is 151% of the Federal Poverty Level (\$1844/1215 100% Federal Poverty Level=1.51 or 151% of the Federal Poverty Level). The Appellant's total gross monthly income exceeded 133% of the Federal Poverty Level and his Medicaid benefits were terminated. Paul Patrick, Economic Services Supervisor, testified that the Appellant may be eligible for additional Medicaid services based on a separate application.

The Appellant was represented by his Attorney-In-Fact and father, [REDACTED]. [REDACTED] testified that his son suffered a heart attack in July 2021, in which he required a pacemaker and ultimately a heart transplant on October 15, 2023. [REDACTED] provided documentation (Exhibit A-1 and A-2) demonstrating that his son was currently admitted to the [REDACTED]. [REDACTED] offered no dispute to the calculated income but requested that his son's Medicaid coverage be extended until he could begin receiving Medicare assistance.

The Board of Review is required to adhere to regulating policy and cannot change the policy or award eligibility beyond the circumstances provided in the policy. This Hearing Officer is unable to grant the Appellant the relief sought in the matter by awarding extended coverage beyond the policy provisions. Based on the evidentiary review during the hearing process, the 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) The Appellant's monthly gross income of \$1844.00 exceeded the income limits set forth by policy.
- 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 terminate the Appellant's Adult Medicaid benefits.

ENTERED this ____ day of October 2023.

Eric L. Phillips
State Hearing Officer