



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

November 9, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-3038

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Ruth Skinner, WVDHHR

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

████████████████████,

Appellant,

v.

Action Number: 23-BOR-3038

**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 31, 2023.

The matter before the Hearing Officer arises from the August 7, 2023, decision by the Respondent to terminate SSI Medicaid benefits for the Appellant, and the September 14, 2023, decision by the Respondent to deny Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits for the Appellant's husband.

At the hearing, the Respondent appeared by Ruth Skinner, Economic Services Supervisor, WVDHHR. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's husband. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Medicaid review form dated July 17, 2023
- D-2 Notice of Decision dated September 14, 2023
- D-3 Fair Hearing Request received on September 29, 2023
- D-4 Self-employment income information for 2022 (Internal Revenue Service forms)
- D-5 Notice of Decision dated August 7, 2023

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 Supplemental Security Income (SSI) Medicaid benefits.
- 2) The Respondent sent the Appellant a Notice of Decision on August 7, 2023, informing her that Medicaid benefits would stop because her SSI payments had ended (Exhibit D-5).
- 3) The Appellant was sent a Medicaid review form on July 17, 2023, and submitted the form to the Respondent on August 14, 2023 (Exhibit D-1).
- 4) The Respondent sent the Appellant a Notice of Decision on September 14, 2023, indicating that [REDACTED] was ineligible for Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits because household income was excessive (Exhibit D-2).
- 5) [REDACTED] receives \$1,526.90 per month in Social Security benefits.
- 6) The Appellant receives \$925 per month in Social Security benefits.
- 7) [REDACTED] has a monthly gross self-employment income from [REDACTED] \$233.67 (\$2,804 per year divided by 12 months) (Exhibit D-4).
- 8) Gross combined countable household income is \$2,685.57.
- 9) The income limit for a two-person MAGI Adult Medicaid household is \$2,186.
- 10) The Respondent counted \$53,238.05 in vehicle, liquid, personal property, and life insurance assets for the household.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 23.10.4 states, in pertinent part:

As a result of the Affordable Care Act (ACA), the Adult Group was created, effective January 1, 2014. Eligibility for this group is determined using MAGI methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who are aged 19 or older and under age 65.

To be eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

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.

West Virginia Income Maintenance Manual Chapter 4.7.5.A.2 lists allowable deductions for self-employment income and states:

Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income. The instructions below must be used to arrive at the gross profit, which is used to calculate countable income. These instructions are based upon the IRS Forms used by self-employed individuals to file federal taxes on their self-employment income. Income from self-employment is calculated by totaling the following items, as described on the IRS Forms:

- Add payment cards and third-party network transactions.
- Add gross receipts or sales (separate from items reported above).
- Add income that results from “Statutory Employee” status. If an individual’s income results from such a status, they would receive a W-2 for the year that has the “Statutory Employee” box checked.
- Add any other form of income received by the business.
- Subtract returns, allowances, and other adjustments.
- Subtract the cost of goods sold, calculated using the following methodology:
 - o Add value of inventory at the beginning of the period under consideration.
 - o Add purchases (disregarding cost of items withdrawn for personal use).
 - o Add labor costs (disregarding amounts paid to oneself).
 - o Add materials and supplies.
 - o Add other costs.
 - o Subtract value of inventory at the end of the period under consideration.
- Subtract the expenses related to the business’ operations. The following expenses can be deducted:
 - o Advertising
 - o Car and truck expenses
 - o Commissions and fees
 - o Contract labor
 - o Depletion
 - o Depreciation and section 179 expense deduction
 - o Employee benefit programs
 - o Insurance (not including health insurance)
 - o Interest (mortgage and from other loans)
 - o Legal and professional services
 - o Office expenses

- o Pension and profit-sharing plans
- o Rent or lease (includes vehicles, machinery, equipment, and other business property)
- o Repairs and maintenance
- o Supplies o Taxes and licenses
- o Travel, meals, and entertainment
- o Utilities
- o Wages
- o Any other business-related expenses

- Subtract the business' expenses from its income to arrive at the self-employment income profit or loss for the individual.

West Virginia Income Maintenance Manual Chapter 4.7.3 states that the only allowable income disregard for MAGI Medicaid 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.

West Virginia Income Maintenance Manual Chapter 4.7.2 states that eligibility for the MAGI coverage group is determined by using the adjusted gross income (for each member of the MAGI household whose income will count) for the current month. The MAGI differs from the adjusted gross income because MAGI accounts for additions and adjustments. The worker uses the budgeting method established in Section 4.6.1, Budgeting Method, to anticipate future income amounts, consider past income sources, and build monthly income amounts based on the applicant's reported income.

West Virginia Income Maintenance Manual Chapter 4, Appendix A states that the income limit for a two-person MAGI Assistance Group is \$2,186 (133% of the Federal Poverty Level).

West Virginia Income Maintenance Manual Chapter 1.15.1 states that when SSI benefits are terminated, eligibility as a Deemed SSI Recipient must be evaluated. SDX alerts indicate potential eligibility.

- SGAs, Essential Spouses and Pass-Throughs do not require a Worker determination.
- PAC AG cases require a financial determination by the Worker and a PAC evaluation is completed for any Medicaid applicant or client who may meet the eligibility requirements. When the Worker determines that the client is a Deemed SSI Recipient, he must enter the appropriate code in the eligibility system.

DISCUSSION

Policy states that to be eligible for the MAGI Adult Medicaid Group, income must be equal to or below 133% of the Federal Poverty Level for the household size after all allowable deductions.

The Appellant and her husband did not dispute the amount of Social Security income counted by the Respondent. However, the Appellant questioned the amount of self-employment income considered by the Respondent. [REDACTED] countable self-employment income is \$2,804 as shown on Schedule C of his 2022 income tax form (\$2,804 per year divided over 12 months equates to \$233.67 per month).

[REDACTED] Social Security income of \$925 + [REDACTED] Social Security income of \$1,526.90 + [REDACTED] monthly self-employment income of \$233.67 equals \$2,685.57 per month. The household is ineligible for the 5% FPL disregard.

As the income limit for a two-person MAGI Assistance Group is \$2,186 (133% of the Federal Poverty Level), the Respondent's decision to deny MAGI Medicaid benefits based on excessive income is affirmed.

The Respondent's witness indicated that the Appellant's assets were also excessive to receive Medicaid benefits; however, the Appellant indicated that she no longer owns some of the assets listed by the Respondent. Because household income is excessive for MAGI Medicaid, assets will not be addressed in this decision. However, a new asset assessment would be required in subsequent Medicaid eligibility evaluations since the amount of countable assets is in dispute.

It is unclear whether the Appellant was evaluated as a Deemed SSI Recipient following her SSI Medicaid closure. Therefore, the Appellant should be evaluated for Deemed SSI programs and notified of her eligibility for such programs accordingly.

CONCLUSIONS OF LAW

- 1) The Appellant's total household income for MAGI Adult Medicaid benefits is \$2,685.57.
- 2) The income limit for a two-person MAGI Medicaid household is \$2,186.
- 3) The Appellant's household is ineligible for MAGI Medicaid benefits.
- 4) The Appellant lost her SSI Medicaid benefits when her SSI payments ended.
- 5) The Appellant should be evaluated to determine whether she meets qualifications as a Deemed SSI Recipient.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to deny MAGI Medicaid benefits effective September 2023. As the Appellant's SSI Medicaid benefits were terminated due to the loss of SSI, the case is **REMANDED** to the Respondent to determine the Appellant's eligibility as a Deemed SSI Recipient or any other Medicaid coverage group for which she may be eligible.

ENTERED this 9th day of November 2023.

**Pamela L. Hinzman
State Hearing Officer**