



**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 14, 2023



RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-3068

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Bonnie Price, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-3068

**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 November 14, 2023, on an appeal filed on October 2, 2023.

The matter before the Hearing Officer arises from the September 27, 2023, decision by the Respondent to terminate the Appellant's Qualified Medicare Beneficiary (QMB) benefits.

At the hearing, the Respondent appeared by Bonnie Price, Economic Service Worker. The Appellant appeared and was represented by her husband, ██████████. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Hearing Request received October 2, 2023
- D-3 Application for Medicare Buy-In Program received July 26, 2023
- D-4 Notice of Termination dated September 27, 2023
- D-5 West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-6 Data Exchange Social Security Administration Benefit Details Screen for Appellant
- D-7 Data Exchange Social Security Administration Benefit Details Screen for ██████████
- D-8 West Virginia Income Maintenance Manual §4.3.1 Chart 1
- D-9 West Virginia Income Maintenance Manual §23.8.2.A
- D-10 West Virginia Income Maintenance Manual §23.8.3
- D-11 Hearing Summary

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 applied for Medicare Premium Assistance on July 27, 2023 (Exhibit D-3).
- 2) The Appellant receives Social Security benefits of \$1,081 monthly (Exhibits D-3 and D-6).
- 3) The Appellant's husband, [REDACTED] would become eligible for Social Security benefits of \$1,041 in September 2023 (Exhibit D-6).
- 4) The Appellant's application was pended for verification of an Income Retirement Account and checking accounts.
- 5) On August 4, 2023, the Respondent's Customer Service Center approved Qualified Medicare Beneficiary (QMB) benefits for the Appellant, effective August 1, 2023.
- 6) On August 30, 2023, the Appellant's caseworker pended the Appellant's case as verification of the checking accounts had not been received.
- 7) Upon receipt of verification of the checking accounts, [REDACTED] Social Security income was added to the case.
- 8) The Respondent issued a notice to the Appellant on September 27, 2023, advising that she would not receive QMB benefits after October 31, 2023, due to excessive income. Qualified Individual 1 (QI-1) benefits for the Appellant were approved effective November 1, 2023 (Exhibit D-4).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 3 explains eligibility determination groups:

3.15.1 The Assistance Group for QMB, SLIMB and QI-1

When eligible spouses are both members of the assistance group (AG), they must receive the same level of coverage, QMB, SLIMB, or QI-1.

3.15.1.A Who Must Be Included?

Only the individual or spouses who are eligible for QMB, SLIMB, or QI-1 are included in the AG.

3.15.2 The Income Group

3.15.2.A Eligible Individual with No Spouse

Count only the individual's income.

3.15.2.B Eligible Spouses – No Long Term Care (LTC) Services

Count the income of both individuals

3.15.2.C Eligible Individual with an Ineligible Spouse – No LTC Medicaid Services

Consider the income of the ineligible spouse to determine if it must be deemed. See Chapter 4 for how to determine if the spouse's income is deemed.

3.15.3 The Needs Group

3.15.3.A Individual with No Spouse

The income limit for a single individual is used.

3.15.3.B Eligible Spouses – No LTC Medicaid Services

The income limit for two persons is used.

3.15.3.C Eligible Individual with Ineligible Spouse, No Income Deemed – No LTC Medicaid Services

The income limit for a single individual is used.

3.15.3.D Eligible Individual with Ineligible Spouse, Income is Deemed – No LTC Medicaid Services

The income limit for two persons is used.

West Virginia Income Maintenance Manual Chapter 4 explains income eligibility for QMB, SLIMB and QI-1:

4.12.1 Determining Eligibility

Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. Deemed income is addressed in Section 4.12.2 below.

Countable income is determined as follows:

Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions. See Section 4.14.2.

Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions. See Section 4.14.2.

Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income.

Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels for the appropriate number of persons. See Section 4.14 for SSI-Related deeming procedures.

If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client(s) is eligible. Eligibility for these coverage groups is determined as follows:

- QMB – Income is less than or equal to 100% FPL.
- SLIMB – Income is greater than 100% FPL, but less than or equal to 120% FPL.
- QI-1 – Income is greater than 120% FPL, but less than or equal to 135% FPL.

NOTE: When income is deemed from an ineligible spouse, the income is added to the client's income in Steps 1 and 2.

4.14.2 Income Disregards

4.14.2.B Unearned Income

4.14.2.B.1 SSI \$20 Disregard

A \$20 disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

4.14.2.B.2 Unearned Income Diverted to PASS

Any unearned income diverted to a PASS account is deducted from income.

4.14.2.B.3 Death Benefits

The portion of a lump-sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual, is deducted.

Appendix A: Income Limits

100% FPL for a one-person assistance group is \$1,215

100% FPL for a two-person assistance group is \$1,644

120% FPL for a one-person assistance group \$1,458

120% FPL for a two-person assistance group \$1,972

135% FPL for a one-person assistance group \$1,641

135% FPL for a two-person assistance group \$2,219

West Virginia Income Maintenance Manual Chapter 23 explains specified Medicare Premium Assistance requirements:

23.12.1 Qualified Medicare Beneficiary

Medicaid coverage is limited to payment of the Medicare, Part A and Part B premium amounts and payment of all Medicare co-insurance and deductibles, including those related to nursing facility services. An individual or couple (spouses) is eligible for this limited Medicaid coverage when all the following conditions are met:

- The individual must be enrolled in Medicare, Part A. He must be entitled in any of the following three ways:
 - By being age 64 years and 9 months old or older;

- By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 24 months or longer; or,
- By having end-stage renal disease;
- The individual or spouses must meet the income test detailed in Chapter 4; and,
- The individual or spouses must meet the asset test detailed in Chapter 5.

23.12.2 Specified Low Income Medicare Beneficiary

Medicaid coverage is limited to payment of the Medicare Part B premium. An individual or couple (spouses) is eligible for this limited Medicaid coverage when all of the following conditions are met:

- The individual must be enrolled in Medicare, Part A. He must be entitled in any of the following three ways:
 - By being age 64 years and 9 months old or older;
 - By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 24 months or longer; or,
 - By having end-stage renal disease;
- The individual or spouses must meet the income test detailed in Chapter 4; and,
- The individual or spouses must meet the asset test detailed in Chapter 5.

23.12.3 Qualified Individual 1

Medicaid coverage is limited to payment of the Medicare Part B premium. An individual or couple (spouses) is eligible for limited* Medicaid coverage when all the following conditions are met:

- The individual must be enrolled in Medicare, Part A. He must be entitled in any of the following three ways:
 - By being age 64 years and 9 months old or older;
 - By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 24 months or longer; or,
 - By having end-stage renal disease;
- The individual or spouses must meet the income test detailed in Chapter 4; and,
- The individual or spouses must meet the asset test detailed in Chapter 5.

DISCUSSION

Pursuant to policy, the income limit for QMB is 100% of the FPL for the appropriate needs group size. The Appellant received QMB benefits for August, September and October 2023 based upon her Social Security income of \$1,081. The Appellant's QMB benefits were terminated due to excessive income when her husband began receiving Social Security benefits of \$1,041 monthly.

Policy stipulates that only the individual who is eligible for one of the Medicare Premium Assistance groups (QMB, SLIMB, QI-1) is included in the assistance group. To qualify for Medicare Premium Assistance, the individual must be enrolled in Medicare, Part A. The Appellant's spouse is not enrolled in Medicare and is therefore considered an ineligible spouse.

The income limit for a couple is used when an eligible individual resides with an ineligible spouse and the income of the ineligible spouse is deemed to the eligible spouse. The Appellant is a

Medicare recipient and considered an eligible individual for Medicare Premium Assistance. The Appellant's spouse is an ineligible individual with income; therefore, his income is counted in determining the Appellant's eligibility for Medicare Premium Assistance.

The combined income of the Appellant and her husband must be equal to or below 100% of the FPL for a two-person needs group to receive QMB benefits. The combined income for the Appellant is \$2,122 which exceeds the allowable limit of \$1,644 to qualify for QMB benefits. The combined income of the Appellant and her husband is less than 135% of the FPL, or \$2,219, for the Qualified Individual 1 program.

██████████ testified that he and the Appellant have had numerous conversations with different Respondent caseworkers since July 2023 and they were told their income was below the limit for the Appellant to receive QMB benefits, even after the benefit changed from QMB to QI-1. ██████████ and the Appellant expressed their frustration with the Respondent and the lack of consistent information regarding her eligibility.

Whereas the combined income of the Appellant and her husband exceeds the allowable limit to continue receiving QMB benefits, the Respondent's decision to terminate the Appellant's QMB benefits and approve QI-1 benefits is affirmed.

CONCLUSIONS OF LAW

- 1) The income limit for a couple is used when an eligible individual resides with an ineligible spouse and the income of the ineligible spouse is deemed to the eligible spouse.
- 2) The Appellant is a Medicare recipient and is considered an eligible individual.
- 3) The Appellant's spouse is not a Medicare recipient and is considered an ineligible individual.
- 4) ██████████ Social Security income is deemed to the Appellant and is considered when determining her eligibility for Medicare Premium Assistance.
- 5) The monthly income limit for a two-person needs group for QMB is \$1,644
- 6) The combined income, after all allowable deductions are applied, is \$2,102.
- 7) The combined income of the Appellant and her husband is excessive to receive QMB benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Qualified Medicare Beneficiary benefits.

ENTERED this 14th day of November 2023.

Kristi Logan
Certified State Hearing Officer