



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Esta es la decision de su Audiencia
Imparcial. La decision del Departamento ha
sido confirmada/invertido/remitido.
Si usted tiene preguntas, por favor llame a
304-267-0100**

**Christopher G. Nelson
Interim Inspector General**

November 21, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NOS: 23-BOR-3237 & 3238

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: Peter VanKleeck, BFA, WV DHHR

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

[REDACTED]

Appellant,

v.

**Action Number: 23-BOR-3237
23-BOR-3238**

**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 [REDACTED]. 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 21, 2023, on appeal filed October 20, 2023.

The matter before the Hearing Officer arises from the October 5, 2023 decision by the Respondent to close the Appellant's Supplemental Nutrition Assistance Program (SNAP) and Adult Medicaid (MAGI) benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was [REDACTED] Nurse Aide. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Supplemental Nutrition Assistance Program (SNAP) and Medicaid/WV CHIP review form (CSLE), dated September 11, 2023
- D-3 Supplemental Nutrition Assistance Program (SNAP) notice of missed review (CSLN), dated October 5, 2023
- D-4 Notice of closure (EDC1), dated October 5, 2023
- D-5 West Virginia Income Maintenance Manual (WV IMM), Chapter 4, §4.7.4
- D-6 WV IMM, Chapter 4, Appendix A

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 SNAP and Adult Medicaid (MAGI) benefits.
- 2) SNAP policy requires periodic reviews of eligibility.
- 3) On September 11, 2023, the Respondent issued the Appellant SNAP and Medicaid eligibility review forms (CSLR) to complete with instructions to return the form by October 1, 2023, to the local office and to complete a telephone interview appointment scheduled on October 4, 2023. (Exhibit D-2)
- 4) The Appellant returned the review forms to the local office on September 21, 2023. (Exhibit D-1)
- 5) The Appellant self-attested to a bi-weekly income of \$897.12. (Exhibit D-2)
- 6) When the Appellant's bi-weekly income is converted to a monthly average, it equals \$1,928.81 ($\897.12×2.15). (Exhibit D-1)
- 7) The gross income limit for a one-person MAGI Assistance Group is \$1,616 per month (133% of the Federal Poverty Level). (Exhibit D-6).
- 8) The Appellant is over the allowable income limit for MAGI Medicaid.
- 9) The Respondent's worker was unable to reach the Appellant for the policy-required interview to complete his SNAP review. (Exhibit D-1)
- 10) On October 5, 2023, the Respondent issued a notice of SNAP and Adult Medicaid closure to the Appellant. (Exhibit D-4)
- 11) The Appellant does not contest the fact that he failed to complete his SNAP eligibility review.
- 12) The Appellant did not provide any evidence that the self-attested bi-weekly income of \$897.12 was incorrect.

APPLICABLE POLICY

CFR, §273.14 Recertification, in relevant part:

(a) **General.** No household may participate beyond the expiration of the certification period assigned in accordance with [§ 273.10\(f\)](#) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

(b) **Recertification process** —

(1) **Notice of expiration.**

(i) The State agency shall provide households certified for one month or certified in the second month of a two-month certification period a notice of expiration (NOE) at the time of certification. The State agency shall provide other households the NOE before the first day of the last month of the certification period, but not before the first day of the next-to-the-last month. Jointly processed PA and GA households need not receive a separate SNAP notice if they are recertified for SNAP benefits at the same time as their PA or GA redetermination.

(ii) Each State agency shall develop a NOE. The NOE must contain the following:

- (A) The date the certification period expires;
- (B) The date by which a household must submit an application for recertification in order to receive uninterrupted benefits;
- (C) The consequences of failure to apply for recertification in a timely manner;
- (D) Notice of the right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address;
- (E) Information on alternative submission methods available to households which cannot come into the certification office or do not have an authorized representative and how to exercise these options;
- (F) The address of the office where the application must be filed;
- (G) The household's right to request a fair hearing if the recertification is denied or if the household objects to the benefit issuance;
- (H) Notice that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for SNAP recertification at an office of the Social Security Administration;
- (I) Notice that failure to attend an interview may result in delay or denial of benefits; and
- (J) Notice that the household is responsible for rescheduling a missed interview and for providing required verification information.

(iii) To expedite the recertification process, State agencies are encouraged to send a recertification form, an interview appointment letter that allows for either in-person or telephone interviews, and a statement of needed verification required by [§ 273.2\(c\)\(5\)](#) with the NOE.

(2) **Application.** The State agency must develop an application to be used by households when applying for recertification. It may be the same as the initial application, a simplified version, a monthly reporting form, or other method such as annotating changes on the initial application form. A new household signature and date is required at the time of application for recertification. The provisions of [§ 273.2\(c\)\(7\)](#) regarding acceptable signatures on applications

also apply to applications used at recertification. The recertification process can only be used for those households which apply for recertification prior to the end of their current certification period, except for delayed applications as specified in [paragraph \(e\)\(3\)](#) of this section. The process, at a minimum, must elicit from the household sufficient information that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits. The State agency must notify the applicant of information which is specified in [§ 273.2\(b\)\(2\)](#), and provide the household with a notice of required verification as specified in [§ 273.2\(c\)\(5\)](#).

(3) **Interview.** As part of the recertification process, the State agency must conduct an interview with a member of the household or its authorized representative at least once every 12 months for households certified for 12 months or less. The provisions of [§ 273.2\(e\)](#) also apply to interviews for recertification. The State agency may choose not to interview the household at interim recertifications within the 12-month period. The requirement for an interview once every 12 months may be waived in accordance with [§ 273.2\(e\)\(2\)](#).

(ii) If a household receives PA/GA and will be recertified for SNAP benefits more than once in a 12-month period, the State agency may choose to conduct a face-to-face interview with that household only once during that period. At any other recertification during that year period, the State agency may interview the household by telephone, conduct a home visit, or recertify the household by mail.

(iii) State agencies shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires. If a household misses its scheduled interview, the State agency shall send the household a Notice of Missed Interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the State agency shall schedule a second interview.

WV IMM, Chapter 1, §1.2.2.B, *Redetermination Process*, explains in part that periodic reviews of total eligibility for recipients are mandated by federal law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination will result in termination of benefits. If the client completes the redetermination process by the specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

WV IMM, Chapter 1, §1.4.18.E, *Completion*, instructs that a SNAP redetermination is a reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is completed, and the client is found eligible. If the recipient is no longer eligible, the SNAP AG is closed.

WV IMM, Chapter 23, §23.10.4, in pertinent part, states that 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).

WV IMM, Chapter, §4.7.3 states that 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, §4.7.2, explains 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 upon the applicant's reported income.

Income is required to be converted to a monthly amount as by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Bi-weekly amount (every two weeks) x 2.15
- Semi-monthly (twice/month) x 2.

(WV IMM, Chapter 4, §4.6.1.D)

WV IMM, Chapter 4, Appendix A, sets forth the income limit for a one-person MAGI Medicaid Assistance Group of \$1,616 (133% of the Federal Poverty Level).

DISCUSSION

Policy mandates periodic reviews for SNAP recipients be completed in order to determine continuing eligibility for the program benefit. These redeterminations take place at specific intervals, depending on the program. Failure by the client to complete a redetermination will result in termination of benefits.

On September 11, 2023, the Respondent issued a SNAP and Medicaid redetermination form to the Appellant with instructions that the form must be completed and returned by October 1, 2023, and a required telephone interview was scheduled for October 4, 2023. On October 5, 2023, a notice of missed appointment was sent to the Appellant explaining that he would need to schedule another appointment to complete his SNAP interview. On October 5, 2023, the Respondent issued a notice of SNAP benefit closure for failure to complete a review and Medicaid benefit closure due to being over the allowable income limit. The Appellant appeals the Respondent's decision.

The Appellant did not contest the fact that he failed to complete his SNAP redetermination. Because the Appellant failed to complete his SNAP review, the Respondent correctly closed his SNAP benefits.

The Appellant testified that the income amount he put on his review form of \$897.12 was "a little bit more than [he] normally makes." However, no further testimony was given regarding his income, even after being given an opportunity to do so. The Appellant testified that he was concerned about not having medical coverage because he is a diabetic and needs medication.

The Respondent's representative testified that the Appellant's self-attested income of \$897.12 was multiplied by 2.15 as required by policy, for a total monthly income of \$1,928.81. The monthly income is converted to a percentage of the FPL by dividing the monthly income by 100% of the FPL for the household size. As the Appellant's household size is one, 100% of the FPL equals \$1,215. The Appellant's monthly income is converted to a percentage of the FPL, which is 158.75% (\$1,928.81/\$1,215). Policy sets the allowable income limit for Adult Medicaid (MAGI) to be 133% of FPL, or \$1,616 monthly income limit. The Appellant is over the allowable monthly income limit for Adult Medicaid eligibility.

There was no evidence provided by the Appellant to show that the self-attested income was incorrect. The Respondent correctly determined that the Appellant was over the allowable income limit for Adult Medicaid benefits.

CONCLUSIONS OF LAW

- 1) Policy requires periodic reviews of SNAP eligibility for continuation of benefits.
- 2) The Appellant was required to complete his SNAP review by completing an interview scheduled.
- 3) Because the Appellant failed to complete the SNAP review, the Respondent must close his SNAP benefits.
- 4) Policy sets the income limit for Adult Medicaid (MAGI) at 133% of FPL or \$1,616 a month for an AG of one.
- 5) The Appellant self-attested to a bi-weekly income of \$897.12, which when converted to a percentage of FPL, equaled 158% FPL.
- 6) Because the Appellant was over the allowable monthly income limit for Adult Medicaid, the Respondent correctly terminated the Appellant's Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's October 5, 2023 decision to close the Appellant's SNAP and Adult Medicaid benefits.

ENTERED this 21st day of November 2023.

Lori Woodward, Certified Hearing Officer