



**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**

December 13, 2023



RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-3455

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: Jennifer Mynes, Office of Constituent Services

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

██████████,

Appellant,

v.

Action Number: 23-BOR-3455

**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 December 12, 2023, on an appeal filed November 15, 2023.

The matter before the Hearing Officer arises from the August 24, 2023, decision by the Respondent to deny Adult Medicaid benefits.

At the hearing, the Respondent appeared by Jennifer Mynes, Office of Constituent Services. The Appellant represented herself. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Board of Review Scheduling Order dated November 28, 2023
- D-2 Hearing Summary
- D-3 Case Comments from January 11, 2023, through December 6, 2023
- D-4 Notice of Termination dated April 26, 2023
- D-5 Notice of Termination dated July 14, 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 Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits.
- 2) The Respondent received an alert from its online exchange with the Social Security Administration reporting that the Appellant had been approved for Supplemental Security Income (SSI) benefits.
- 3) The Respondent terminated the Appellant's Adult Medicaid benefits effective May 31, 2023, and approved SSI Medicaid benefits effective June 1, 2023 (Exhibit D-4).
- 4) The Appellant completed a SNAP eligibility redetermination in July 2023, and reported that she no longer received SSI benefits and reported the onset of Social Security Disability benefits.
- 5) The Respondent issued a notice of termination on July 14, 2023, advising the Appellant that she was no longer eligible for SSI Medicaid due to the termination of the SSI benefit (Exhibit D-5).
- 6) The Appellant reapplied for Medicaid on August 15, 2023.
- 7) The Respondent denied the Appellant's application for Adult Medicaid benefits due to excessive income.
- 8) A pre-hearing conference was conducted with the Appellant on November 15, 2023.
- 9) Potential eligibility for SSI-Related Medicaid benefits was discussed with the Appellant, who stated that she did not have outstanding medical bills to meet a spenddown.
- 10) The Respondent denied SSI-Related Medicaid benefits for the Appellant as she could not meet a spenddown.
- 11) The Appellant receives monthly Social Security Disability benefits of \$1,061 and her husband, [REDACTED], receives monthly Social Security Disability benefits of \$1,257.
- 12) The Appellant is not eligible for Medicare until 2025.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 23 explains Medicaid eligibility requirements:

23.11.1 SSI Recipients

Supplemental Security Income (SSI) is a public assistance program administered by the Social Security Administration (SSA), which provides cash benefits to eligible aged, disabled, or blind individuals. There is no spenddown provision. States have some options regarding Medicaid coverage for SSI recipients. West Virginia elected to cover all SSI recipients and to accept SSA's determination of eligibility for SSI as the sole eligibility determination for Medicaid. West Virginia is referred to as a "1634 state," based on the section of the Social Security Act that permits this. Consequently, there is no application or eligibility determination process for SSI Medicaid. The Department depends upon SSA for the information needed to open, evaluate, and close continuing eligibility for SSI Medicaid cases. SSI Medicaid eligibility ends when SSI ends in most situations. The Worker uses information from a data exchange between Department of Health and Human Resources (DHHR) and SSA to open the SSI Medicaid benefit.

23.10.4 Adult Group

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 Modified Adjusted Gross Income (MAGI) methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who meet the following requirements:

- They are age 19 or older and under age 65;
- They are not eligible for another categorically mandatory Medicaid coverage group:
 - SSI
 - Deemed SSI
 - Parents/Caretaker Relatives
 - Pregnant Women
 - Children Under Age 19
 - Former Foster Children
- They are not entitled to or enrolled in Medicare Part A or B; and
- The income eligibility requirements described in Chapter 4 are met.

23.11.3 SSI-Related

Individuals who meet the SSI definition of aged, blind or disabled are eligible for Medicaid when all of the following conditions are met. Aged means 65 years or over.

- Countable income is under the Medically Needy Income Limit (MNIL). The income eligibility requirement is detailed in Chapter 4. However, no SSI-Related case is denied due only to excess income. Instead, the Worker must deduct incurred medical bills from countable income for the six-month Period of Consideration. This process is called spenddown and details of this procedure are in Chapter 4. Eligibility and the amount of the spenddown, if any, are determined using the MNIL. The level of the MNIL is determined by each state according to federal guidelines.

23.12 Medicare Premium Subsidies

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. The Buy-In Unit pays the Medicare premium. 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.

West Virginia Income Maintenance Manual §3.7 explains eligibility determination groups for Modified Adjusted Gross Income (MAGI) Adult Medicaid:

3.7.2 MAGI Household Income Group

Income of each member of the individual's MAGI household is counted. The income group is determined using the MAGI methodology established in Section 3.7.3.

3.7.3 MAGI Household Needs Group

The needs group is the number of individuals included in the MAGI household size based upon the MAGI rules for counting household members. In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.

West Virginia Income Maintenance Manual §4.7 explains the Modified Adjusted Gross Income (MAGI) methodology for the Adult Medicaid group:

4.7.1 Determining Income Counted for the MAGI Household

Income of each member of the individual's MAGI household is counted. The MAGI household is determined using the MAGI methodology established in Chapter 3.

4.7.4 Determining Eligibility for MAGI Medicaid

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 §4.14.4.J explains SSI-Related Spenddowns:

To be eligible for Medicaid, the Income Group's (IG) monthly countable income must not exceed the amount of the MNIL. If the income exceeds the MNIL, the AG has an opportunity to spend the income down to the MNIL by incurring medical expenses. These expenses are subtracted from the income for the six-month POC, until the income is at, or below, the MNIL for the Needs Group (NG) size. The spenddown process applies only to AFDC-Related and SSI-Related Medicaid.

Chapter 4 Appendix A: Income Limits

133% of the FPL for a two-person AG: \$2,186

100% of the FPL for a two-person AG: \$1,644

MNIL Level for a two-person AG: \$275

DISCUSSION

Pursuant to policy, the income limit for a two-person assistance group for Adult (MAGI) Medicaid benefits is \$2,186, or 133% of the federal poverty level. A 5% disregard is applied if the deduction would bring the assistance group's income below the 133% federal poverty level income limit. According to MAGI methodology, married couples who reside together must be included in the MAGI household of the other spouse.

The total combined income of the Appellant and her husband is \$2,318. To determine if the Appellant is eligible for the 5% disregard, the monthly income is divided by 100% of the federal poverty level: $\$2,318 / \$1,644 = 1.41$ which is then converted to a percentage, 141%. Since the application of the 5% disregard would not bring the Appellant's countable income that is 141% of the federal poverty level below the allowable income limit of 133% of the federal poverty level, the disregard is not applied. The gross countable income is excessive for the Appellant to receive Adult Medicaid benefits.

Policy stipulates that to be eligible for SSI-Related Medicaid, the monthly countable income cannot exceed the MNIL level for the size of the assistance group. The MNIL level for a two-person assistance group is \$275. If the income exceeds the MNIL level, the assistance group must "spenddown" the income to the MNIL by incurring medical expenses. These expenses are subtracted from the income until the income is at or below the MNIL level. The Appellant testified that she does not have any outstanding medical expenses to meet a spenddown.

Eligibility for Medicare Premium Assistance programs is established when an individual is entitled to or enrolled in Medicare Part A. The Appellant is not eligible for Medicare and is therefore not eligible for Medicare Premium Assistance.

Eligibility for SSI Medicaid benefits is established by the receipt of SSI benefits as determined by the Social Security Administration. The Appellant did not contest that she no longer receives an SSI payment. The Appellant is not eligible for SSI Medicaid benefits.

The Appellant testified that she applied for health insurance through [healthcare.gov](https://www.healthcare.gov) and was denied because she was potentially eligible for Medicaid. The Appellant testified that she has health conditions that will not be treated without health insurance. The Appellant stated she understood if she was no longer eligible for Medicaid and required a Medicaid denial notice to appeal the [healthcare.gov](https://www.healthcare.gov) denial.

Whereas the Appellant's countable combined income of \$2,318 exceeds the allowable limit of \$2,186 to receive MAGI Adult Medicaid benefits, the Respondent's decision to deny the Appellant's application is affirmed. The Appellant does not meet the eligibility criteria to receive Medicare Premium Assistance and SSI Medicaid benefits. The Appellant does not have outstanding medical expenses to meet a spenddown under SSI-Related Medicaid.

CONCLUSIONS OF LAW

- 1) The income limit for a two-person household for MAGI Adult Medicaid benefits is \$2,186.
- 2) The gross monthly income for the Appellant's assistance group is \$2,318.
- 3) The Appellant's income is excessive to receive MAGI Adult Medicaid benefits.
- 4) Eligibility for SSI Medicaid benefits is established by the receipt of SSI benefits as determined by the Social Security Administration.
- 5) The Appellant does not receive SSI benefits and is not eligible to receive SSI Medicaid.
- 6) Eligibility for Medicare Premium Assistance programs is established when an individual is entitled to or enrolled in Medicare Part A.
- 7) The Appellant is not entitled to or enrolled in Medicare Part A and is not eligible to receive Medicare Premium Assistance.
- 8) The income limit to receive SSI-Related Medicaid, without a spenddown, is \$275 for a two-person assistance group.
- 9) The Appellant does not have medical expenses to meet a spenddown and is not eligible for SSI-Related Medicaid.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant's applications for Modified Adjusted Gross Income Adult Medicaid and SSI-Related Medicaid benefits.

ENTERED this 13th day of December 2023.

Kristi Logan
Certified State Hearing Officer