

**WEST VIRGINIA DEPARTMENT OF HEALTH
BOARD OF REVIEW**

In Re: [REDACTED], APPELLANT

ACTION # 24-BOR-3019

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 45 CFR Part 155, Subpart F as a result of the Federally Facilitated Marketplace (FFM) having denied a Premium Tax Credit to the Appellant and the Appellant's subsequent choice to appeal that denial and have the appeal heard by the appeals entity for the State of West Virginia. That entity is the Board of Review within the West Virginia Department of Health. The Appellant submitted her appeal request to the FFM on or about August 23, 2024.

The question of whether the FFM was correct in determining that the Appellant was ineligible for a Premium Tax Credit because she was determined eligible for Medicaid at the time of the application is determined de novo in this proceeding.

On August 23, 2024, the federal appeals entity electronically transmitted to the Board of Review the Appellant's appeal file.

The hearing was held by telephone on October 1, 2024. The Appellant appeared *pro se*. The Marketplace was not represented. The Appellant was sworn in.

The Appellant submitted no documents as evidence in the hearing.

On October 9, 2024, the Appellant was sent notice of a post-hearing conference scheduled for 10 a.m. on October 29, 2024. The Appellant failed to appear for the post-hearing conference to clarify information concerning household income.

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 completed an application for health care assistance through the Federally Facilitated Marketplace, and was notified by letter dated August 22, 2024, that her family was eligible for Medicaid and that she was denied a Premium Tax Credit as a result.

- 2) The Appellant resides with her husband, [REDACTED] and her two children, ages seven and 10.
- 3) The Appellant and her family moved to West Virginia from [REDACTED] in August 2024.
- 4) The Appellant and her husband are currently training online to become missionaries to [REDACTED].
- 5) [REDACTED] previously worked at [REDACTED] and the [REDACTED] provided him with half of his salary for the months of August and September 2024.
- 6) [REDACTED] received pay from the [REDACTED] every two weeks while employed.
- 7) The Appellant stated during the hearing that her husband's gross pay from the [REDACTED] was \$7,759.34, but it is unclear whether the \$7,759.34 was a bi-weekly or monthly pay amount.
- 8) [REDACTED] expects no further income from the [REDACTED].
- 9) The Appellant received \$350 for photography services in August 2024, \$75 for selling crafts in September 2024, and will receive \$200 for photography services in October 2024.
- 10) The Appellant anticipates no further income from photography and selling crafts at the present time.
- 11) The Appellant and her husband will earn a total of \$2,400 for helping a relative deep clean a house in October 2024.
- 12) After October 2024, the Appellant and her husband hope to pick up seasonal work before leaving on their mission trip.
- 13) The maximum monthly gross income for a four-person needs group for MAGI Medicaid is \$3,458 (133% of the Federal Poverty Level).

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 23.10.2 states that to be eligible for children's Medicaid (ages six to 19), income must be equal to or below 133% of the FPL.

West Virginia Income Maintenance Manual Chapter 22.16.1 states that to be eligible for WVCHIP benefits, household income must be equal to or below 211% of the 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.

To determine the MAGI household size, the following step-by-step methodology is used for each applicant. For purposes of applying the MAGI methodology:

- Child means natural, adopted, or stepchild;
- Parent means natural, adopted, or stepparent;
- Sibling means natural, adopted, half, or stepsibling.

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. The MAGI household of the pregnant woman also includes her unborn child(ren).

This methodology must be applied to each applicant in the MAGI household separately:

STEP 1: IS THE APPLICANT A TAX FILER (and will NOT be claimed as a tax dependent)?

IF NO: Move to STEP 2.

IF YES: 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.

This is known as the tax filer rule.

STEP 2: IS THE APPLICANT CLAIMED AS A TAX DEPENDENT ON SOMEONE ELSE'S TAXES?

IF NO: Move to STEP 3.

IF YES: Test against the three exceptions below. If the answer to any of these exceptions is 'yes', then the applicant's MAGI household size must be calculated using STEP 3.

1. The applicant is claimed as a dependent by someone other than a spouse or parent.

2. The applicant is a child under 19 who lives with both parents, but both parents do not expect to file taxes jointly.
3. The applicant is a child under 19 who is claimed as a tax dependent to a non-custodial parent(s).

If none of these exceptions are true, then the applicant's Medicaid household consists of the applicant, the tax filer claiming him as a dependent, this could be two people filing jointly, any other dependents in the tax filer's household, and the applicant's spouse if they reside together. This is known as the tax dependent rule.

STEP 3: IF THE APPLICANT IS NOT A TAX FILER, IS NOT CLAIMED AS A TAX DEPENDENT OR MEETS ONE OF THE EXCEPTIONS IN STEP 2:

The Medicaid household consists of the applicant and the following individuals as long as they reside with the applicant:

- The applicant's spouse;
- The applicant's child(ren) under age 19;
- For applicants under 19, their parents, and their siblings who are also under 19.

This is known as the non-filer rule.

West Virginia Income Maintenance Manual Chapter 4.7.1 states that the 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.

EXCEPTION: Income of children, or other tax dependents, who are not expected to be required to file an income tax return is excluded from the MAGI household income. **NOTE:** A reasonable determination as to whether an individual will be required to file a tax return can be made based on the individual's current income for the applicable budget period. Such a determination would be based on information available at the time of application or renewal. Information regarding "Who Must File" a tax return can be found in Appendix F.

West Virginia Income Maintenance Manual 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.

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 upon the applicant's reported income.

West Virginia Income Maintenance Manual Chapter 4, Appendix A, states that the income limit for a four-person MAGI Medicaid needs group is \$3,458 (133% of the Federal Poverty Level).

DISCUSSION

To qualify for MAGI Adult and Children's (ages six to 19) Medicaid, household income cannot exceed 133% of the Federal Poverty Level for the needs group size. The income limit for a four-person MAGI Medicaid needs group is \$3,458 per month.

The Appellant testified that her family moved to West Virginia in August 2024, and they currently reside with family members. She indicated that she and her husband are currently taking online courses through a [REDACTED] organization to become missionaries to [REDACTED]. They plan to stay in the area briefly while preparing for missionary service before embarking on their missionary trip.

The Appellant testified that she estimated household income during her FFM application in August 2024. She provided additional income information for August and September 2024 during the hearing, as well as her projected income for October 2024. It is unclear, however, whether the Appellant provided her husband's bi-weekly or monthly gross income for August and September 2024 as no income verification or pay stubs were provided.

Without income verification, testimony provided during the hearing is insufficient to make a Medicaid eligibility determination, and the Appellant failed to appear for a post-hearing conference to clarify income information. Therefore, the issue is remanded to the West Virginia Department of Human Services to make a determination concerning Medicaid and/or WVCHIP eligibility.

CONCLUSIONS OF LAW

- 1) The income limit for a four-person MAGI Medicaid household is \$3,458.
- 2) The Appellant's eligibility for Medicaid benefits cannot be determined in the absence of income verification or additional income clarification.

DECISION

It is the determination of the State Hearing Officer that the issue of the Appellant's Medicaid eligibility is **REMANDED** to the Department of Human Services, [REDACTED] Office, for evaluation.

ENTERED this 30th Day of October 2024.

**Pamela L. Hinzman
State Hearing Officer**