



**STATE OF WEST VIRGINIA
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

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

**Christopher G. Nelson
Interim Inspector General**

January 24, 2024



RE: [REDACTED] v. WV DEPARTMENT OF HUMAN SERVICES BUREAU FOR
FAMILY ASSISTANCE
ACTION NO.: 24-BOR-1021

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 WV Department of Human Services. These same laws and regulations are used in all cases to ensure 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: Karry Evans, [REDACTED] DoHS

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 24-BOR-1021

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on January 23, 2024, on an appeal filed on January 2, 2024.

The matter before the Hearing Officer arises from the December 8, 2023, decision by the Respondent to deny the Appellant's application for Medicare Premium Assistance benefits.

At the hearing, the Respondent appeared by Karry Evans, Economic Service Worker. The Appellant represented herself. 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 January 2, 2024
- D-3 Board of Review Scheduling Order dated January 3, 2024
- D-4 Checking Account Statement dated November 5, 2023
- D-5 Life Insurance Policy with ██████████
- D-6 Notice of Denial dated December 8, 2023
- D-7 Case Comments from November 17, 2023, through January 3, 2024
- D-8 West Virginia Income Maintenance Manual §5.4

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 November 6, 2023.
- 2) The Respondent verified the Appellant's assets as a checking account with a balance of \$58.21 and a life insurance policy with a cash surrender value of \$9,913.09 (Exhibits D-4 and D-5).
- 3) The asset limit for Medicare Premium Assistance for a one-person assistance group is \$9,090.
- 4) The Respondent issued a notice of denial on December 8, 2023, advising the Appellant that her assets exceeded the allowable limit to receive Medicare Premium Assistance (Exhibit D-6).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 5 explains assets and determining eligibility:

5.3.4 Accessibility of Assets

A client may not have access to some assets. To be considered an asset, the item must be owned by, or available to, the client and available for disposition. If the client cannot legally dispose of the item, it is not his asset.

5.4 Maximum Allowable Assets

Medicare Premium Assistance: \$9,090 for a one-person assistance group

5.5.27 Life Insurance (Cash Surrender Value)

If the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of \$1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

DISCUSSION

Pursuant to policy, the asset limit for a one-person assistance group for Medicare Premium Assistance is \$9,090. The Respondent denied the Appellant's application when it determined that her total countable assets were \$9,971.92.

The Appellant did not refute the cash value of the life insurance policy but testified that she has no intention of borrowing from the policy. The Appellant stated she had borrowed money from the policy years ago and is responsible for paying the interest on the loan each year. The Appellant stated she can barely afford to pay the loan interest and monthly premium and has been unable to pay off the loan in its entirety. The Appellant contended that if she borrowed additional money from the policy, to lessen the cash surrender amount, she would not be able to afford the additional loan interest and she is fearful the policy will be terminated. The Appellant requested that the life insurance policy be excluded from asset determination due to financial hardship.

Policy excludes a life insurance policy if the face value of the policy is less than or equal to \$1,500. If the face value of the life insurance policy for an individual is more than \$1,500, the cash surrender value is counted as an asset. The face value of the Appellant's policy is \$81,588 therefore, the cash surrender value of \$9,913.09 is a countable asset.

The Board of Review does not have the authority to change policy or award eligibility beyond the circumstances provided in policy. The Board of Review is unable to grant the Appellant relief by awarding asset exclusions or eligibility exceptions beyond those found in policy.

Whereas the cash surrender value of the Appellant's life insurance policy of \$9,913.09 is a countable asset and exceeds the allowable asset limit of \$9,090 for Medicare Premium Assistance, the Respondent's decision to deny the Appellant's application is affirmed.

CONCLUSIONS OF LAW

- 1) The asset limit for Medicare Premium Assistance for a one-person assistance group is \$9,090.
- 2) If the face value of a life insurance policy is more than \$1,500, the cash surrender value of the policy is counted as an asset.
- 3) The face value of the Appellant's life insurance policy is \$81,588.
- 4) The cash surrender value of the policy of \$9,913.09 is a countable asset.
- 5) The Appellant's countable assets exceed the allowable limit to receive Medicare Premium Assistance.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant's application for Medicare Premium Assistance.

ENTERED this 24th day of January 2024.

Kristi Logan
Certified State Hearing Officer