



July 10, 2024



RE: [REDACTED] v. DoHS
ACTION NO.: 24-BOR-2374

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 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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

cc: Justin Thorne, Sarah Dever, Pamela Trickett – [REDACTED] DoHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-2374

**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 July 2, 2024.

The matter before the Hearing Officer arises from the March 28, 2024 decision to deny the Appellant eligibility for Medicare Premium Assistance.

At the hearing, the Respondent was represented by Sarah Dever, ██████████ DoHS. The Appellant appeared and represented himself. Appearing as a witness for the Appellant was ██████████. All representatives and witnesses were placed under oath and the following exhibits were submitted as evidence:

Department's Exhibits:

- D-1 Scheduling Notice
- D-2 Notice, dated March 28, 2024
- D-3 West Virginia Income Maintenance Manual (WVIMM) Chapter 4 Income Chart
- D-4 WVIMM Chapter 4 policy excerpts
- D-5 WVIMM Chapter 5 policy excerpts
- D-6 WVIMM Chapter 23 excerpts
- D-7 WVIMM Chapter 25 excerpts

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) On February 23, 2024, the Appellant applied for Medicare Premium Assistance.
- 2) In March 2024, the Appellant's unearned income increased to \$1,783.70.
- 3) On March 28, 2024, the Appellant was denied eligibility for Medicare Premium Assistance because his income exceeded the eligibility income limit (Exhibit D-2).
- 4) At the time of his February 23, 2024 application, the Appellant was receiving \$1,729 in unearned Retirement, Survivors, and Disability Insurance (RSDI) (Exhibit D-2).

APPLICABLE POLICY

WVIMM Chapter 4, Appendix A provides that for a one-person assistance group (AG), to be eligible for Medicare Premium Assistance QI-1, the Appellant's income could not exceed \$1,695.

WVIMM § 4.12.1 *Determining Eligibility* provides in relevant sections: Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. Recipients of federal benefits such as RSDI may receive periodic cost of living adjustments (COLA). For QI-1, the RSDI COLAs are disregarded in determining income eligibility for January and any subsequent months before the effective month of the state's Federal Poverty Level (FPL) updates for the year. RSDI increases are handled in accordance with instructions in Chapter 10, Appendices A and B.

Countable income is calculated by determining the total countable gross unearned income and subtracting the appropriate disregards and deductions. See Section 4.14.2. The resulting amount is compared to the QI-1 income level for the appropriate number of persons. If the amount is less than or equal to the QI-1 income level, the client is eligible. To be eligible for QI-1, countable income must be greater than 120% FPL, but less than or equal to 135% FPL. See Appendix A.

WVIMM § 4.14.2.B *Unearned Income Disregards* provides in relevant parts: An SSI \$20 disregard is applied to the total gross unearned income.

WVIMM § 23.12 through 12.12.3 *Medicare Premium Subsidies* provides the following income limits for the coverage groups:

- For Qualified Medicare Beneficiaries (QMB), the household income cannot exceed 100% FPL.
- For Specified Low-Income Medicare Beneficiaries (SLIMB), the household income must range between 101 – 120% FPL.

- For Qualified Individuals (QI), the household income must range between 121 – 135% FPL.

WVIMM § 25.1.1 *Definition of Buy-In* provides that the agency pays Medicare Part A or Part B premium for certain Medicaid clients who are also eligible for Medicare. This procedure is referred to as the buy-in process.

DISCUSSION

The Appellant applied for Medicare Premium Assistance and was denied because his income exceeded the eligibility limit. The Appellant argued that his medical costs are extensive without Medicare Premium Assistance and contested the Respondent's eligibility denial.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of evidence that the Appellant was correctly denied Medicare Premium Assistance because his income exceeded the eligibility limit. To be eligible for Medicare Premium Assistance, the Appellant's gross monthly income could not exceed \$1,695.

The Board of Review cannot judge the policy and can only determine if the Respondent followed the policy when determining the Appellant's eligibility for Medicare Premium Assistance.

The notice reflected \$1,729 gross unearned income. After the application of a \$20 disregard, the Respondent considered \$1,709.00 in the Appellant's countable net income. During the hearing, the Respondent's representative testified that she verified the Appellant's \$1,783.70 gross monthly unearned income through the Social Security Administration (SSA) database. The Appellant testified that he received an income increase and the amount reported was correct. Testimony was provided regarding additional insurance premium deductions from the Appellant's gross income; however, the policy requires the gross amount of income to be considered when determining the client's eligibility for Medicaid benefits, not the net income amount. Because the Appellant's monthly unearned income exceeded the \$1,695 income eligibility limit, the Respondent correctly denied the Appellant's Medicare Premium Assistance eligibility.

CONCLUSIONS OF LAW

- 1) The qualifying gross monthly income range for Medicare Premium Assistance is \$1,255 to \$1,695 (100% to 135% FPL).
- 2) The preponderance of evidence demonstrated the Appellant's gross income exceeded the \$1,695 gross income eligibility limit for QI Medicare Premium Assistance.
- 3) The Respondent correctly denied the Appellant's eligibility for Medicare Premium Assistance.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny his Medicare Premium Assistance eligibility.

ENTERED this 10th day of July 2024.

Tara B. Thompson, MLS
State Hearing Officer