



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH
Office of the Inspector General
Board of Review**

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

**Christopher G. Nelson
Interim Inspector General**

January 12, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS BFA
ACTION NO.: 23-BOR-3542

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. 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: Decision Recourse
Form IG-BR-29

CC: Stacy Kasproicz, [REDACTED] DoHS

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

██████████,

Appellant,

v.

Action Number: 23-BOR-3542

**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 the Inspector General's Common Chapters Manual. This fair hearing was convened on December 19, 2023.

The matter before the Hearing Officer arises from the Respondent's November 21, 2023 decision to terminate the Appellant's Adult Medicaid benefits.

At the hearing, the Respondent appeared by Stacy Kasprowicz, Department of Human Services (DoHS). The Appellant appeared and represented herself. Both witnesses were sworn-in and no exhibits were entered as evidence for consideration.

Department's Exhibits:

None

Appellant's Exhibits:

None

After a review of the record — including testimony 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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant received Adult Medicaid benefits and resided in a three-person household that included the Appellant, her husband, and her twenty-six-year-old daughter, [REDACTED]
- 2) The Appellant's husband receives Medicaid coverage from a different Medicaid coverage group.
- 3) On November 21, 2023, the Respondent issued a notice advising the Appellant her Adult Medicaid benefits would stop, after November 30, 2023, because her income exceeded the Adult Medicaid income eligibility limit.
- 4) The November 21, 2023 notice indicated that [REDACTED] was ineligible because "This individual does not meet eligibility requirements for this assistance."
- 5) The Respondent's November 21, 2023 decision was based on income for the Appellant that included \$313.43 earned income and \$2,076.04 unearned income.
- 6) In November 2023, the Appellant applied for Supplemental Nutrition Assistance Program eligibility and indicated that she no longer claimed [REDACTED] as a tax dependent.
- 7) The Respondent removed [REDACTED] from the Appellant's MAGI household.
- 8) The Respondent assessed the Appellant for eligibility for other Medicaid coverage groups before terminating her Adult Medicaid benefits.
- 9) The Appellant's benefits were reinstated during the pendency of the hearing.
- 10) The Appellant's husband received \$145.78 bi-weekly earned income.
- 11) The Respondent considered the Appellant's husband's \$711.90 monthly SSDI and \$1,364 monthly pension payments as unearned income.
- 12) The Appellant's combined earned and unearned income equaled \$2,389.33.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.2.C Case Reviews and Case Maintenance provides in relevant sections: A review may be conducted at any time on a single or combination of questionable eligibility factor(s) between redeterminations. Changes in eligibility may occur. If so, eligibility system action and client notification of any changes are required.

WVIMM § 3.5 Medicaid – General Eligibility provides in relevant sections:

The Medicaid assistance group (AG) is composed of the individual(s) who meet(s) the eligibility requirements for coverage under a specific Medicaid coverage group. However, the income of the AG does not determine the financial eligibility for all coverage groups. Some coverage groups require the determination of an income group (IG) to determine countable income and a needs group (NG) for comparison to the appropriate needs standard to determine financial eligibility. The case in which the AG member(s) receives coverage may be composed of eligible AG members of one or more coverage groups.

WVIMM § 3.71.A Adult Group – Who Must be Included? provides in relevant part:

Adults aged 19 or older and under age 65 must be included in the Adult Group AG.

WVIMM § 3.7.1.B Who Cannot Be Included? Provides in relevant parts:

- Individuals eligible for these categorically mandatory coverage groups:
 - Supplemental Security Income (SSI)
 - Deemed SSI
 - Parents/Caretakers
 - Pregnant Women
 - Children Under Age 19
 - Former West Virginia Foster Children
- Individuals entitled to or enrolled in Medicare Part A or B
- Parents or other caretaker relatives living with a dependent child under the age of 19 ...

WVIMM § 3.7.2 The Modified Adjusted Gross Income (MAGI) Household Income Group (IG) provides in relevant parts:

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

WVIMM § 3.7.3 The MAGI Household Needs Group (NG) provides in relevant parts:

The needs group is the number of individuals included in the 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

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

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 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.

WVIMM § 4.6.1.D *How to Use Past and Future Income* provides in relevant sections:

Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows: ... Biweekly amount (every two weeks) x 2.15

WVIMM § 4.7.1 *MAGI Methodology ... Determining Income Counted for the MAGI Household* provides in relevant sections:

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.

WVIMM § 4.7.2 *Calculating MAGI (What Income is Counted)* provides in relevant sections:

To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count, for the current month.

WVIMM § 4.7.3 *MAGI-Based Income Disregard* provides in relevant sections:

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.

WVIMM § 4.7.4 *Determining Eligibility* provides in relevant sections:

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

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, no disregard is necessary, and no further steps are required.

Step 3: If the result from Step 2 is greater than the appropriate limit, 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.

WVIMM § 23.10.4 Adult Group provides that to be eligible for the Adult Group, income must be at or below 133% FPL.

WVIMM Chapter 4, Appendix A Income Limits provides in the relevant parts: For a two-person household, 100% of the FPL is \$1,644, and 133% of the FPL is \$2,186.

DISCUSSION

The Respondent determined the Appellant was ineligible for Adult Medicaid because her income exceeded the eligibility limit for a two-person MAGI household. During the hearing, the Respondent testified that the Appellant was assessed for other Medicaid eligibility and disability eligibility groups. The Appellant did not dispute that she was evaluated for other Medicaid coverage groups. The Appellant contended that the amount of earned income is low and requested the Respondent's decision be reversed and her Adult Medicaid eligibility continued.

The Board of Review is required to follow the policy and cannot change the policy or award Adult Medicaid eligibility beyond the circumstances provided in the policy. The Hearing Officer is unable to grant the Appellant relief by awarding income exclusions or Adult Medicaid eligibility exceptions beyond the policy provisions.

MAGI HOUSEHOLD

The Respondent's representative testified that the Appellant resided in a three-person household when she received Adult Medicaid before the Respondent's decision. The Respondent's representative testified that in November 2023, the Appellant applied for Supplemental Nutrition Assistance Program (SNAP) benefits and reported that [REDACTED] was no longer her dependent. The

Appellant did not dispute the composition of her household or that her daughter is no longer her tax dependent.

The policy stipulates that the Appellant and her spouse are required to be considered in the same MAGI household and that her spouse's income must be included when determining her Adult Medicaid eligibility. According to the policy, [REDACTED] was not included in the Appellant's MAGI household because she was not the Appellant's dependent.

The Respondent's representative testified that because [REDACTED] was no longer a tax dependent, the Appellant's AG size decreased to two persons. During the hearing, the Respondent's representative testified that the Appellant's income exceeded the Adult Medicaid income eligibility limit for a two-person AG.

Income

To be eligible for Adult Medicaid, the Appellant's monthly income could not exceed \$2,186, 133% of the FPL for a two-person MAGI household. During the hearing, the Respondent testified to the calculations used to determine the Appellant's income amounts reflected on the notice. The Appellant did not contest the amount of income used by the Respondent and testified the income amounts reported were correct. The Respondent's representative testified that a 5% income disregard was not applied.

Earned Income

The Appellant's husband receives \$145.78 in bi-weekly wages. Under the policy, to convert this amount to a monthly amount, the wages are multiplied by 2.15:

\$145.78	bi-weekly wages
X 2.15	
\$313.427	monthly earned income.

Unearned Income

The Appellant's husband receives \$711.90 monthly SSDI and \$1,364 monthly pension income. Combined, the Appellant's total unearned income was \$2,075.90.

Total Income

The Appellant's combined earned and unearned income equaled \$2,389.33.

\$2,075.90	unearned income
+ 313.43	earned income
\$2,389.33	

5% Disregard

To convert the Appellant's gross monthly income to a percentage of the FPL, divide the current monthly income by 100% of the FPL for the household size and convert the result to a percentage.

$$\$2,389.33 \div \$1,644 = 1.45 \text{ (145\%)}$$

Even after the application of a 5% disregard, the AG's income would be 140% of the FPL, which exceeds the 133% FPL eligibility limit. Because the Appellant's income exceeded the Medicaid eligibility limit, the Respondent correctly terminated her Adult Medicaid eligibility. Because the Respondent's decision to terminate the Appellant's Adult Medicaid benefits was correct, relief cannot be granted by reversing the Respondent's decision.

CONCLUSIONS OF LAW

- 1) The preponderance of the evidence demonstrated that the Appellant's MAGI household consisted of herself and her spouse at the time of the Respondent's decision.
- 2) For a two-person MAGI household, the monthly income could not exceed \$2,186 — 133% of the FPL.
- 3) The preponderance of the evidence demonstrated that the Appellant's MAGI household monthly income was \$2,389.33 — 145% of the FPL.
- 4) The Respondent correctly acted to terminate the Appellant's Adult Medicaid benefits because the household's monthly income exceeded the Medicaid eligibility limit.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's Adult Medicaid eligibility.

Entered this 12th day of January 2024.

Tara B. Thompson, MLS
State Hearing Officer