



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 22, 2024



RE: [REDACTED] v. WV DEPARTMENT OF HUMAN SERVICES BUREAU  
FOR FAMILY ASSISTANCE  
ACTION NO.: 23-BOR-3753

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,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Samantha Vickers, [REDACTED] DHS

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

██████████,

**Appellant,**

**v.**

**Action Number: 23-BOR-3753**

**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 17, 2024, on an appeal filed on December 26, 2023.

The matter before the Hearing Officer arises from the December 12, 2023, decision by the Respondent to terminate Qualified Individual benefits.

At the hearing, the Respondent appeared by Samantha Vickers, Economic Service Worker. The Appellant represented himself. All witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

None

**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 Qualified Individual (QI-1) benefits.
- 2) The Appellant submitted a Medicaid redetermination to the Respondent on December 9, 2023.
- 3) The Appellant reported his income as \$1,683 monthly in Social Security benefits.
- 4) The Respondent issued a notice of termination to the Appellant advising that his QI-1 benefits would be terminated effective December 31, 2023, due to excessive income.

## **APPLICABLE POLICY**

*West Virginia Income Maintenance Manual §4.12* explains income eligibility for Medicare Premium Assistance groups, including QI-1:

### **4.12.1 Determining Eligibility**

Countable income is determined as follows:

Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions. See Section 4.14.2.

Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions. See Section 4.14.2.

Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income.

Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels for the appropriate number of persons. See Section 4.14 for SSI-Related deeming procedures. If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client(s) is eligible.

Eligibility for these coverage groups is determined as follows:

- Qualified Medicare Beneficiary (QMB) – Income is less than or equal to 100% Federal Poverty Level (FPL).
- Specified Low Income Medicare Beneficiary (SLIMB) – Income is greater than 100% FPL, but less than or equal to 120% FPL.
- QI-1 – Income is greater than 120% FPL, but less than or equal to 135% FPL.

### **4.14.3 Determining Eligibility**

Countable income is determined by subtracting any allowable disregards and deductions in the Budgeting Method section above from the total countable gross income. Countable income is determined as follows:

Step 1: Determine the total countable gross unearned income and subtract the \$20 disregard, if applicable.

Step 2: Determine the total countable earned income. Subtract the following in order:

- Remainder of SSI \$20 disregard
- SSI \$65 earned income disregard
- SSI impairment-related expenses
- One-half of remaining earned income
- SSI work-related expense deductions (blind persons only)
- Earnings diverted to a PASS
- SSI student child earned income disregard

Step 3: Add the result from Step 1 to the result from Step 2.

Step 4: Subtract unearned income diverted to a PASS account, the Death Benefits deduction and, for children, the child support disregard. The result is the total monthly countable income.

Step 5: Compare the amount in Step 4 to the SSI Maximum Payment Level, indicated in Appendix A for the appropriate number of persons. If the net countable monthly income is equal to or less than the appropriate SSI Maximum Payment Level, the assistance group (AG) is eligible, and no further steps are necessary. If the net countable monthly income is above the appropriate SSI Maximum Payment Level, continue with Step 6.

Step 6: Compare the amount in Step 4 to the Medically Needy Income Level (MNIL) for the appropriate number of persons.

*West Virginia Income Maintenance Manual Chapter 4 Appendix A* lists income limits:

100% FPL for a one-person assistance group: \$1,215

120% FPL for a one-person assistance group: \$1,458

135% FPL for a one-person assistance group: \$1,641

## **DISCUSSION**

Policy stipulates that to be eligible for QI-1 benefits, the total countable income, after all deductions are applied, cannot exceed \$1,641 for a one-person assistance group. The Respondent terminated the Appellant's QI-1 benefits when it determined that the Appellant's countable net income, after deductions, of \$1,663 exceeded the allowable limit.

The Appellant did not dispute the income used to determine eligibility for QI-1 benefits but testified that paying his Medicare premium will create a financial hardship. The Appellant testified that he is only \$22 over the income limit to receive QI-1 benefits and requested that he be granted a waiver.

The Board of Review is required to follow policy and cannot change policy or award eligibility beyond the circumstances provided in policy. The Hearing Officer is unable to grant the Appellant relief by awarding income exclusions or QI-1 eligibility exceptions beyond those found in policy.

The Appellant's countable gross income from Social Security benefits is \$1,683. Per policy, he is entitled to the \$20 SSI Disregard deduction, which makes his total countable net income as \$1,663. The income limit for a one-person assistance group for QI-1 is \$1,641. The Appellant's income is excessive to continue receiving QI-1 benefits.

### **CONCLUSIONS OF LAW**

- 1) The income for a one-person assistance group for Qualified Individual benefits must be less than or equal to 135% of the federal poverty level, or \$1,641 monthly.
- 2) The Appellant's countable net income, after all deductions allowed by policy, is \$1,663.
- 3) The Appellant's income is excessive to continue receiving Qualified Individual benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Qualified Individual benefits.

**ENTERED this 22<sup>nd</sup> day of January 2024.**

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**Kristi Logan**  
**Certified State Hearing Officer**