



March 26, 2025

REMOVED

RE: **REMOVED** v. WVDohS
ACTION NO.: 25-BOR-1125

Dear **REMOVED**

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 assure 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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Mynes, BFA

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

REMOVED

Appellant,

v.

Action Number: 25-BOR-1125

**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 **REMOVED**. 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 February 19, 2025, on an appeal filed January 17, 2025.

The matter before the Hearing Officer arises from the January 21, 2025 decision by the Respondent to terminate the Appellant's Medicaid assistance.

At the hearing, the Respondent appeared by Jennifer Mynes, Program Manager-Client Services. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Presiding over the proceeding was Angela Signore, State Hearing Officer. Hearing Officer Signore is unable to render a complete decision on the above matter and this matter was reassigned to a substitute Hearing Officer. This decision is based on a review of the recorded proceedings and all evidence presented on the convening date.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Notice of Decision dated January 21, 2025
- D-3 Income Chart

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 Adult Medicaid assistance.
- 2) The Appellant reported that he was the only member of his assistance group.
- 3) The Appellant was required to compete a redetermination of his eligibility for Medicaid assistance by December 2024.
- 4) The Appellant submitted the redetermination on January 6, 2025.
- 5) The Respondent's Client Services division completed the redetermination on January 15, 2025.
- 6) The Appellant self-attested a monthly income of \$1881.25.
- 7) The monthly income limit for Adult Medicaid assistance is \$1670.00.
- 8) The Respondent issued a Notice of Decision (Exhibit D-2) on January 21, 2025, informing the Appellant that he no longer met the eligibility criteria for Medicaid assistance due to excessive income.
- 9) The Appellant has an infant son which he failed to report on the eligibility redetermination.

APPLICABLE POLICY**West Virginia Income Maintenance Manual Chapter 1.2.4 documents:**

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

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.

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.

West Virginia Income Maintenance Manual Chapter 4.7.1 documents in part:

Income of each member of the individual's MAGI household is counted.

West Virginia Income Maintenance Manual Chapter 4.7.4 documents in pertinent part:

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 (IG).

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 (133% FPL), no disregard is necessary, and no further steps are required.

Step 3: If the result from Step 2 is greater than the appropriate limit (133% FPL), 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.

West Virginia Income Maintenance Manual Chapter 4, Appendix A, documents in part:

For a one-person Assistance Group, 133% of the FPL is \$1670

For a one-person Assistance Group, 100% of the FPL is \$1255

West Virginia Income Maintenance Manual Chapter 4.6.1.B documents in part:

The Worker must consider information about the client's income sources before deciding which income to use.

The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period or POC. If it is not expected to continue, the income from this source is no longer considered for use in the new certification period or POC. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If the income is expected to continue, the income source is used for the new certification period or POC and treated according to How to Use Past and Future Income below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period or POC and treated according to Consideration of Future Income below.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period or POC, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered. NOTE: The year-to-date amounts on check stubs may only be used when the client has verification of all payment amounts whether used or not, but is missing one. Once the Worker has determined all the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

West Virginia Income Maintenance Manual Chapter 4.3.2 documents:

Applicable MAGI Coverage Groups:

- Adult Group
- Children Under Age 19
- Parents/Caretaker Relatives
- Pregnant Women
- WVCHIP

Countable Sources of Income:

- Alimony ONLY if the alimony agreements are finalized prior to January 2019
- Census Bureau Income
- Net Farming/Fishing
- Net Rental Income
- Pensions and Annuities
- Retirement Accounts and Profit-Sharing Plans
- Self-Employment and Business Income
- Social Security Benefits
- Unemployment Benefits
- Wages, Salaries, and Tip Income
- Other:
 - o Accrued Leave Payment
 - o Advance Commission
 - o Allowances and Reimbursements
 - o Back Pay Awards
 - o Bartering Income
 - o Bonuses and Awards
 - o Child Care Provider Income
 - o College Work Study Program (this is considered taxable income under IRS rules and therefore cannot be excluded from the MAGI calculation.)
 - o Court Awards and Damages
 - o Disability Pension Plans Paid by Employer
 - o Discharged Student Loan Debt, unless the student is deceased or determined as permanently and totally disabled.
 - o Dividends and Other Stock Gains
 - o Earnings for Clergy
 - o Employee Achievement Awards
 - o Fringe Benefits
 - o Gambling Income and Losses
 - o Government Cost-of-Living Allowances (COLA)
 - o Interest Income Reported on a 1099
 - o Most Cancelled Debts
 - o National Guard Differential Wage Payments
 - o Non-Qualified Deferred Compensation Plans
 - o Prize Payments
 - o Qualified Lottery and Gambling Winnings. See Section 4.7.5.F Exception.
 - o Railroad Retirement Benefits
 - o Railroad Sick Pay
 - o Royalties
 - o Severance Pay o Sick Pay o Stock Appreciation Rights

Excluded Income Sources This list is not all inclusive, payments from any source must be evaluated. Please contact the BMS Policy Unit.

- ABLE Account distributions that are used for qualified disability expenses

- Adoption Assistance
- American Indian/Alaska Native Specific Income Sources:
 - o Distributions from Alaska Native Corporations and Settlement Trusts
 - o Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior
 - o Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:
- Rights of ownership or possession in any lands described in paragraph (3)(b) of this section; or
- Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.
- AmeriCorps Living Expenses
- Black Lung Benefits
- Cash Support
- Child Support
- Educational Scholarships and Fellowship Grants including AmeriCorps Education Expenses (See Section 4.7.5.C)
- Federal Tax Credits
- Foster Care Payments
- Gifts and Loans
- Parent Mentor Compensation
- Supplemental Security Income (SSI)
- TANF Assistance
- Title XIX Medicaid Waiver Payments:
 - o Medicaid Waiver Payments made to an applicant if they live in the home full-time with the waiver client.
- Veteran Benefits (Disability, Pension, other):
 - o Disability compensation and pensions payments for disabilities paid either to veterans or their families.
 - o Grants for homes designed for wheelchair living.
 - o Grants for motor vehicles for veterans who lost their sight or the use of their limbs.
 - o Veterans' insurance proceeds and dividend paid either to veterans or their beneficiaries, including the proceeds of a veteran's endowment policy paid before death.
 - o Interest on insurance dividends left on deposit with the VA.
 - o Benefits under a dependent care assistance program.
 - o The death gratuity paid to a survivor of a member of the Armed Forces who died after September 10, 2001.
 - o Any bonus payment by a state or political subdivision because of service in a combat zone.
- Worker's Compensation

DISCUSSION

Eligibility for Adult Medicaid assistance is established when a household's countable income is equal to or below 133% of the Federal Poverty Level for the appropriate needs group size.

The Respondent determined that the Appellant's countable income exceeded the income limits set forth by policy and denied the Appellant's reapplication for Adult Medicaid benefits effective January 21, 2025. The Respondent must prove by a preponderance of the evidence that the household's countable income exceeded 133% of the Federal Poverty Level or \$1670 per month.

On January 6, 2025, the Appellant completed a redetermination for his Adult Medicaid benefits. The Appellant self-attested his income of \$1881.25 per month. The Respondent, through contact with the Appellant, determined there were no fluctuations in his income and terminated his eligibility. On January 21, 2025, the Respondent issued a Notice of Decision (Exhibit D-2) informing the Appellant that his income exceeded the monthly income limit of \$1670.00.

The Appellant testified that he has a newborn son but failed to list his son on the redetermination. The Appellant testified that he has multiple preexisting health conditions which may prevent him from obtaining health insurance from his employer. These health issues include heart issues, a pacemaker and open-heart surgery. The Appellant indicated that these health issues require consultation with a cardiologist and the lack of Medicaid coverage creates a financial burden for his household.

Per policy, the client has the responsibility to provide complete and accurate information regarding their circumstances so that the Worker is able to make a correct determination about eligibility. While the Appellant claimed his son was part of his assistance group, he acknowledged that he did not include his son on the redetermination. Furthermore, there was no information reported to the Respondent during the eligibility determination or during the hearing process to determine whether the child was a tax dependent for the Appellant. Because the Appellant failed to report his son as member of his assistance group, the Respondent correctly assessed eligibility with information known at the time of redetermination.

The Appellant's considered income is 149% of the Federal Poverty Level (\$1881.25/1255 100% Federal Poverty Level=1.49 or 149% of the Federal Poverty Level). There was no testimony to establish the Respondent applied a 5% income disregard to the Appellant's income. A 5% income disregard would establish the Appellant's income at 144% of the Federal Poverty Level. Because the Appellant's adjusted income exceeds the established income limit set forth by policy of 133% of the Federal Poverty Level, the Respondent was correct in its decision to terminate the Appellant's eligibility for Adult Medicaid Assistance.

CONCLUSIONS OF LAW

- 1) Eligibility for Adult Medicaid benefits is determined when an assistance group's countable income is equal to or less than 133% of the appropriate needs group.
- 2) The Appellant reported himself as his assistance group; therefore, the income limit for his needs group is \$1670 for a one-person assistance group.

- 3) The Appellant's total household income was \$1881.25 or 149% of the Federal Poverty Level.
- 4) The Appellant's income was excessive for Adult Medicaid assistance.

DECISION

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

ENTERED this ____ day of March 2025.

Eric L. Phillips
State Hearing Officer