April 30, 2025

[redacted]

RE: [redacted]v. WVDoHS
ACTION NOS.: 25-BOR-1685 and 25-BOR-1921

Dear Ms. [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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Mynes, WVDoHS
Alanna Cushing, WVDoHS

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted],

Appellant,

v. **Action Numbers: 25-BOR-1685 and 25-BOR-1921**

WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR MEDICAL SERVICES,

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [redacted]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on April 29, 2025.

The matter before the Hearing Officer arises from the decision by the Respondent to deny Long-Term Care Waiver, specifically Aged/Disabled Waiver Medicaid, and other Medicaid benefits for November and December 2024.

At the hearing, the Respondent was represented by Jennifer Mynes, Program Manager for Client Services, WVDoHS, and Alanna Cushing, HHR Specialist Senior, WVDoHS. The Appellant was self-represented. All witnesses were placed under oath, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Referral Form for Medicaid Aged and Disabled Waiver Program dated March 4, 2025
- D-2 Notice of Decision dated February 21, 2025, concerning financial eligibility for the Aged/Disabled Waiver Program
- D-3 Notices of Decision dated March 6, 2025
- D-4 West Virginia Income Maintenance Manual Chapter 24.37.1.G

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 Long-Term Care Waiver Program benefits, specifically, Aged/Disabled Waiver (ADW) Medicaid, on December 2, 2024.

2) The Appellant's application was reviewed on February 19, 2025, at which time it was pended for verification of assets and medical eligibility for the ADW Program.

3) On February 20, 2025, verifications were received and the Appellant's financial eligibility for Medicaid benefits was evaluated.

4) The Appellant was determined to be financially eligible for ADW Medicaid on February 20, 2025, and her application remained pending for medical eligibility verification and the availability of a slot on the ADW waiting list.

5) On February 21, 2025, the Respondent sent the Appellant a Notice of Decision indicating that she had been determined financially eligible to be assessed for medical necessity for the ADW Program (Exhibit D-2).

6) On March 4, 2025, the Appellant was determined as medically eligible for the Aged/Disabled Waiver Medicaid Program (Exhibit D-1).

7) On March 6, 2025, the Respondent sent the Appellant Notices of Decision indicating that she had been approved for ADW Medicaid benefits (Exhibit D-3).

8) The Appellant contacted Client Services on March 21, 2025, to inquire about whether Medicaid could be backdated due to agency delays in processing her application but was informed that ADW coverage could not begin prior to the established medical eligibility date.

9) The Appellant was advised about the possibility of receiving backdated SSI-Related Medicaid with a spenddown.

10) The Respondent computed the Appellant's spenddown as $14,301.78.

11) The Appellant has income from Social Security, teacher's retirement, and a widow's benefit from her husband's union.

12) The Appellant is seeking backdated Medicaid for the payment of medical bills incurred in November and December 2024.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 24.7.1.G states that the beginning date of medical eligibility for the ADW Program is:

> • The first day of the month that the client is financially eligible and the worker receives notice that the client is medically eligible and awarded a funded slot for waiver services; or
> • The first day of the month in which the individual is eligible for payment of ADW services after a transfer of resources penalty expires. See Section 24.29.

West Virginia Income Maintenance Manual Chapter 24.37.2 A.4 addresses Step 1 in the ADW application process and states:

> If the client is determined financially eligible for the ADW:
> • The worker confirms the pending ADW category. Financial eligibility for the ADW category is pended up to 90 days in the data system awaiting verification of medical eligibility and availability of a funded ADW slot. The client is notified by a system generated letter.
> • The worker checks the box on the yellow DHS-2.FRM indicating the client is financially eligible and faxes the form back to the UMC. This will initiate medical eligibility to be determined by the UMC.

West Virginia Income Maintenance Manual Chapter 24.37.2 B addresses Step 2 in the ADW application process and states:

> The white DHS-2.FRM, along with the Notice of Decision letter, confirms to the worker the client was determined medically eligible and awarded a funded slot for the ADW program. The white DHS-2.FRM originates from a case management agency if the client chooses the traditional service delivery model, or from the Bureau of Senior Services (BoSS) if the client chooses the personal options delivery model.

West Virginia Income Maintenance Manual Chapter 24.40 states:

> Medical necessity is determined by the Bureau for Medical Services (BMS) Utilization Management Contracted agency (UMC). When the UMC sends the white DHS-2.FRM, along with the Notice of Decision letter, medical necessity is presumed to be determined. The worker has responsibility in this process to obtain the letter from the UMC as verification of medical eligibility at application and redetermination. The BMS, UMC, or case manager notifies the worker when a client no longer meets medical necessity criteria for Aged and Disabled Waiver services.

West Virginia Income Maintenance Manual Chapter 1.2.1.C, Right to Consideration for All Programs, states:

> It is the worker's responsibility to explain and make available all of the Department of Health and Human Resources' (DHHR) programs for which the applicant could qualify. The worker must evaluate potential eligibility for all programs based on the available information, unless the applicant specifically states he is not interested in being considered for a specific program. When an applicant has been evaluated and eligibility is confirmed, a client notice is issued from the eligibility system to inform the applicant that he may be eligible for a benefit for which he did not apply and that he must contact his local office for information or to apply.

West Virginia Income Maintenance Manual Chapter 23.8.1, Consideration of All Coverage Groups, states:

> The client cannot be expected to know which Medicaid coverage group to apply for. When the client expresses an interest in applying for Medicaid, the worker must explore eligibility for all Medicaid coverage groups. The worker does not have to take and process applications for all coverage groups, but Medicaid eligibility cannot be denied until the client has been considered for each coverage group. If the client is eligible under more than one coverage group, he is approved for the one that will provide him with the most benefits in the shortest time frame. Certain programs, including long-term care programs, require a medical and/or other determination by a agency other than Division of Family Assistance (DFA) as part of the eligibility process. The financial determination is made by the Department of Health and Human Resources (DHHR). When an applicant's medical eligibility for, or enrollment in these programs is pending, he must not be refused the right to apply, but must be evaluated for any or all DFA programs.

DISCUSSION

Policy states that the beginning date of medical eligibility for the ADW Program is the first day of the month that the client is financially eligible and the worker receives notice that the client is medically eligible and awarded a funded slot for waiver services. If the client is determined financially eligible for ADW benefits, the worker confirms the pending ADW category. Financial eligibility for the ADW category is pended up to 90 days in the data system awaiting verification of medical eligibility and availability of a funded ADW slot. When the client expresses an interest in applying for Medicaid, the worker must explore eligibility for all Medicaid coverage groups. The worker does not have to take and process applications for all coverage groups, but Medicaid eligibility cannot be denied until the client has been considered for each coverage group. If the client is eligible under more than one coverage group, he is approved for the one that will provide him with the most benefits in the shortest time frame.

The Appellant testified that her ADW Medicaid benefits were incorrectly terminated in May 2024 due to an agency error in calculating her income and contended that the Respondent should pay for her medical expenses incurred in November 2024 and December 2024. She stated that she marked "yes" on her Medicaid application form, indicating that she wanted her Medicaid coverage backdated for three months. The Appellant discussed the problems she has encountered in obtaining information from the Respondent.

The Respondent acknowledged that the Appellant's income had been counted incorrectly during her review in May 2024. Alanna Cushing, HHR Specialist Senior, with the Respondent indicated that the Appellant could possibly be eligible for SSI-Related Medicaid starting in November 2024 but would be required to meet a spenddown of $14,301.78. The Appellant testified that she is uncertain of the amount of medical bills she incurred in November and December 2024. She indicated that she had several radiological procedures and blood work during that time. The Appellant expressed concern with the delay in processing her ADW application and inquired about whether she could be eligible for backdated ADW benefits so that she would not need to meet a spenddown through another Medicaid category.

A request for continued ADW benefits based on a benefit termination in May 2024 is untimely and cannot be considered by the Board of Review.

As the Appellant was determined to be medically eligible for the Aged/Disabled Waiver Program on March 4, 2025, she is ineligible for ADW Medicaid prior to the month of March 2025. The Appellant, however, expressed an interest in backdated Medicaid on her application form and is required to be evaluated for any Medicaid programs for which she may qualify. The Respondent must, therefore, evaluate the Appellant for SSI-Related Medicaid coverage with a spenddown for the months of November and December 2024.

CONCLUSIONS OF LAW

1) The Appellant applied for ADW Medicaid benefits in December 2024.

2) The Appellant was approved for ADW Medicaid effective March 2025 after medical eligibility was established and a funded slot was available.

3) The Appellant's ADW Medicaid benefits cannot begin prior to March 2025, the month when medical eligibility was established.

4) The Appellant had requested backdated Medicaid benefits to cover medical expenses incurred in November and December 2024.

5) The Respondent must evaluate the Appellant's eligibility for SSI-Related Medicaid with a spenddown, retroactive to November 2024.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to begin ADW Medicaid coverage effective March 2025. The issue of potential SSI-Related Medicaid eligibility beginning November 2024 is **REMANDED** to the Respondent for an eligibility determination.

ENTERED this 30th day of April 2025.

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Pamela L. Hinzman
State Hearing Officer