



June 24, 2025

[REDACTED]

RE: [REDACTED] v. WVDOHS
ACTION NO.: 25-BOR-1702

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Brenda Maynor, Department Representative

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

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-1702

**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 [REDACTED]. 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 May 6, 2025, upon a timely appeal filed on March 28, 2025. A request on the Appellant's behalf was granted to allow the Appellant to arrange for witnesses to testify at the hearing. The hearing was reconvened on June 10, 2025. A request on the Appellant's behalf was granted to allow for late evidence submission, and to allow any reply from the Respondent to that information, with a closed record on June 11, 2025. The Appellant provided additional documents admitted into evidence and the Respondent declined to submit any additional information.

The matter before the Hearing Officer arises from the Respondent's denial of the Appellant's Medicaid application due to excessive assets.

At the hearing, the Respondent appeared by Brenda Maynor and [REMOVED]. The Appellant is deceased. The Appellant was self-represented. Appearing as witnesses for the Appellant were her son, [REDACTED]. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Summary
- Appellant's Hearing Request with accompanying Notice of Decision
- IG-BR-29 Hearing form
- Notice of Decision, dated January 28, 2025

Case comments from the Respondent's data system regarding the Appellant's case
Excerpts from the West Virginia Income Maintenance Manual
Medicaid application, signed August 29, 2024, and scanned November 12, 2024
Unmarked, unsorted bank statements and other asset verifications

Appellant's Exhibits:

A-1	Witness list Statement from [REDACTED], dated February 15, 2025 Receipts dated February 15, 2025 Check dated May 23, 2025
A-2	Cover email, dated June 10, 2025 Email dated April 29, 2025 Email dated April 24, 2025

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 Medicaid, specifically Long-Term Care, or Nursing Facility Medicaid, on October 29, 2024. (Exhibit D-1)
- 2) The Appellant was admitted to a nursing facility on July 9, 2024.
- 3) The Appellant established medical necessity for nursing facility care on September 1, 2024.
- 4) The Appellant applied as a one-person assistance group (AG).
- 5) The Respondent must consider the Appellant's asset eligibility as of the beginning, or "first moment" of September 2024.
- 6) The asset limit for the Appellant's Medicaid category is \$2,000.
- 7) The Respondent noted processing of the Appellant's Medicaid application on January 27, 2025. (Exhibit D-1)
- 8) The Respondent mailed the Appellant a letter, dated January 28, 2025 (Exhibit D-1), advising the Appellant that her Medicaid application was denied due to excessive assets.
- 9) At the time of the January 27, 2025 processing of the Appellant's Medicaid application, the Respondent worker noted assets including homestead property, a life insurance policy,

an individual retirement account (IRA), and checking and savings accounts. (Exhibit D-1)

- 10) The Respondent worker testified the assets considered resulting in the Medicaid denial were a life insurance policy, an IRA, two checking accounts and two savings accounts.
- 11) The Respondent failed to verify the value of the life insurance policy.
- 12) The Respondent failed to verify the value of the Appellant's checking account with the [REDACTED].
- 13) The Appellant had a [REDACTED] savings account with a balance of \$3,137.87 at the beginning of September 2024. (Exhibit D-1)
- 14) The Appellant had a [REDACTED] savings account with a balance of \$15.50 at the beginning of September 2024. (Exhibit D-1)
- 15) The Appellant had a [REDACTED] IRA with a balance of \$497.26 at the beginning of September 2024. (Exhibit D-1)
- 16) The Appellant had a [REDACTED] checking account with a zero balance at the beginning of September 2024. (Exhibit D-1)
- 17) The Respondent showed the Appellant had over \$2,000 in assets as of the "first moment" of September 2024.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 24, addresses Long-Term Care Medicaid, including Nursing Facility coverage. At §24.8, this policy addresses the asset limits as follows:

Applicants for nursing facility services must meet the asset test for their eligibility coverage groups, except for Modified Adjusted Gross Income (MAGI) groups. The asset level for those eligible in the Nursing Facility coverage group and Supplemental Security Income (SSI)- Related/Monthly Spenddown is the same as SSI-Related Medicaid. When both spouses are institutionalized and both apply for nursing facility services, the SSI-Related Medicaid asset limit for a couple is used to determine eligibility. See Chapter 5 for the asset limit of the appropriate coverage group.

WVIMM, Chapter 5, §5.4, shows the asset limit for a one-person AG as \$2,000.

WVIMM, Chapter 5, §5.5.4, notes that bank accounts, including checking and savings accounts, are countable assets for SSI-Related Medicaid.

WVIMM, Chapter 5, §5.5.35.C, notes that an IRA is a countable asset for SSI-Related Medicaid.

The Code of Federal Regulations does not provide asset, or resource, limits at the state level, but sets general requirements as follows at 42 CFR §435.840:

§ 435.840 Medically needy resource standard: General requirements.

- (a) To determine eligibility of medically needy individuals, a Medicaid agency must use a single resource standard that meets the requirements of this section.
- (b) In States that do not use more restrictive criteria than SSI for aged, blind, and disabled individuals, the resource standard must be established at an amount that is no lower than the lowest resource standard used under the cash assistance programs that relate to the State's covered medically needy eligibility group or groups of individuals under § 435.301.
- (c) In States using more restrictive requirements than SSI:
 - (1) For all individuals except aged, blind, and disabled individuals, the resource standard must be set in accordance with paragraph (b) of this section; and
 - (2) For all aged, blind, and disabled individuals or any combination of these groups of individuals, the agency may establish a separate single medically needy resource standard that is more restrictive than the single resource standard set under paragraph (b) of this section. However, the amount of the more restrictive separate standard for aged, blind, or disabled individuals must be no lower than the higher of the lowest categorically needy resource standard currently applied under the State's more restrictive criteria under § 435.121 or the medically needy resource standard in effect under the State's Medicaid plan on January 1, 1972.
- (d) The resource standard established under paragraph (a) of this section may not diminish by an increase in the number of persons in the assistance unit. For example, the resource standard for an assistance unit of three may not be less than that set for a unit of two.

DISCUSSION

The Appellant requested a hearing to dispute the Respondent's denial of her Medicaid application for excessive assets. The Respondent must show by a preponderance of the evidence that the Appellant had excessive assets for the program.

The Appellant applied for Long-Term Care Medicaid, specifically for nursing facility services, on October 29, 2024. The Appellant applied as a one-person assistance group (AG). The applicable asset limit is \$2,000.

The Appellant applied for Medicaid backdating. The Appellant was in a nursing facility in July 2024, and established medical necessity, or a “date of need” of September 1, 2024. The Respondent must consider the Appellant’s assets as of the beginning of September 2024.

The Respondent processed the Appellant’s Medicaid application on January 27, 2025, and issued a denial notice dated January 28, 2025. This notice advised the Appellant that the basis for the denial was excessive assets. Both parties provided extensive irrelevant testimony and little to support any arguments regarding assets. Although evidence was admitted from time periods after the January 28, 2025 decision, nothing was found relevant to the determination of the Appellant’s assets at the first moment of September 2024 made by the Respondent worker on January 27, 2025, and noticed on January 28, 2025.

The Respondent showed comments noting the assets considered in its determination. Testimony shortened this list to insurance, bank accounts and a retirement account. At the first convening of the hearing, [REDACTED], the Appellant’s son and representative, had not notified a witness, and the primary basis for rescheduling the hearing was for him to notify his witness. The secondary reason was for the Respondent to provide the necessary details and documentation to support a complex determination of the values of all the assets the Respondent used as the basis for its denial. Upon reconvening, the Respondent instead provided an unsorted series of financial records. All of the Respondent’s evidence was marked as a single exhibit because the Respondent did not label exhibits. The Respondent’s failure to mark their own documents confused the presentation of asset values, but the Respondent ultimately established the Appellant was over the applicable asset level.

Bank statements, which appeared to be presented in random order, showed the Appellant had a [REDACTED] savings account with a balance of \$3,137.87 at the beginning of September 2024. This asset alone exceeds the \$2,000 asset limit. The Appellant’s witnesses did not provide evidence or testimony of any different values for any of the assets in question at the beginning of September 2024. Bank statement evidence showed a [REDACTED] savings account with a balance of \$15.50, a [REDACTED] IRA with a balance of \$497.26, and a final [REDACTED] checking account with a zero balance.

The Respondent correctly decided that the Appellant had countable assets in excess of \$2,000 in its January 27, 2025 (noticed on January 28, 2025) determination of the Appellant’s assets as of September 1, 2024 – the first date the Appellant was both a nursing facility resident and had established medical necessity. The decision to deny the Appellant’s Medicaid application on this basis is affirmed.

CONCLUSIONS OF LAW

- 1) Because the Appellant was a one-person assistance group (AG) applicant for Long-Term Care Medicaid for nursing facility services, her countable assets must be under \$2,000.
- 2) Because the Appellant has countable assets including a \$3,137.87 savings account, a \$497.26 IRA, and a second savings account of \$15.50, her total countable assets exceed \$2,000.

- 3) Because the Appellant had excessive assets, the Respondent must deny the Appellant's Medicaid application.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's Medicaid application due to excessive assets.

ENTERED this _____ day of June 2025.

Todd Thornton
State Hearing Officer