



July 17, 2025

[REDACTED]

RE: [REDACTED] v. WVDOHS  
ACTION NO.: 25-BOR-2038

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: Bryce Legg, Department Representative  
Drema Berry, Department Representative  
[REDACTED]

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

[REDACTED]

**Appellant,**

**v.**

**Action Number: 25-BOR-2038**

**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 initially convened on June 19, 2025, and reconvened on July 17, 2025, upon a timely appeal filed on May 15, 2025.

The matter before the Hearing Officer arises from the March 21, 2025 decision by the Respondent to deny the Appellant's Medicaid application due to excessive income and assets.

At the hearing, the Respondent appeared by Bryce Legg and Sean Hamilton. The Appellant was not present but was represented by his daughter, [REDACTED]. All witnesses were sworn and the following documents were admitted into evidence.

**EXHIBITS**

**Department's Exhibits:**

- |     |   |
|-----|---|
| D-1 | Application for Long Term Care Medicaid and Children with Disabilities Community Service Program, dated January 21, 2025<br>Referral Form for Medicaid Aged and Disabled Waiver Program |
| D-2 | Verification checklist, dated February 18, 2025   |
| D-3 | Notice of decision, dated March 21, 2025  |

Completed Referral Form for Medicaid Aged and Disabled Waiver Program

D-4 Appellant's bank statements  
West Virginia Income Maintenance Manual policy excerpts

**Appellant's Exhibits:**

A-1 Cover page  
Application for Long Term Care Medicaid and Children with Disabilities  
Community Service Program, dated January 21, 2025  
Medical Necessity Evaluation Request form, dated January 13, 2025  
Note regarding the Appellant's assets  
Appellant's bank statements

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 Medicaid for Aged and Disabled Waiver (ADW) services, on January 21, 2025. (Exhibits D-1 and A-1)
- 2) The Appellant received gross, monthly Retirement, Survivors, and Disability Insurance (RSDI), or Social Security, income of \$2,451.
- 3) The Appellant received gross, monthly pension income of \$592.05.
- 4) The Appellant has total monthly income of \$3043.05.
- 5) The Appellant had a checking account balance of \$5401.65 as of the beginning of January 2025. (Exhibit D-4)
- 6) The Respondent received a net, monthly Social Security deposit of \$2,217 in December 2024. (Exhibit D-4)
- 7) After subtracting the Appellant's pension and net Social Security deposit from his checking account balance as of the beginning of January 2025, the Appellant had countable assets of \$2,592.60.
- 8) The Respondent issued a notice, dated March 21, 2025 (Exhibit D-3), advising the Appellant's Medicaid application was denied due to excessive assets and excessive income.

- 9) The notice (Exhibit D-3) shows countable assets of \$2592.60, and an asset limit of \$2,000.
- 10) The notice (Exhibit D-3) shows gross unearned income of \$3043.05.
- 11) The Appellant exceeds the income limit for ADW Medicaid.
- 12) The Appellant exceeds the asset limit for ADW Medicaid.

### **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual § 4.1, provides, in part:**

...Income is defined as any and all monies received from any source.

The determination of countable income is necessary, because it is, generally, the countable income that is tested against maximum income limits.

The first step in determining countable income is to determine all the incoming monies to the assistance group (AG) and to those whose income is counted for, or deemed to, the AG.

Once all incoming monies have been identified, they are compared to the income exclusions listed in this Chapter, and, if applicable, the income from any excluded source is subtracted.

After all income exclusions have been applied, some of the remaining income may qualify for certain disregards and deductions as outlined in the sections for each specific program...

**West Virginia Income Maintenance Manual, § 24.30, provides, in part:**

...The determination of which income sources to count is the same as Supplemental Security Income (SSI)-Related Medicaid. See Chapter 4.

The client's monthly gross countable income must be equal to or less than 300% of the maximum SSI payment for a single individual...

**West Virginia Income Maintenance Manual, § 24.31, provides, in part:**

The determination of countable asset sources is the same as for Supplemental Security Income (SSI)-Related Medicaid. See Chapter 5. The SSI-Related Medicaid asset limit for one person is used...

**West Virginia Income Maintenance Manual, § 4.3.1, provides a table of income sources which notes how they are treated for various benefits.**

For SSI-Related Medicaid, § 4.3.1.59, the table notes that pensions are unearned income and states “count gross.”

For SSI-Related Medicaid, § 4.3.1.73, Retirement, Survivors, and Disability Insurance (RSDI) is listed as unearned income and states “count the amount of the client’s entitlement. This includes any amount deducted for Medicare, if applicable.”

**West Virginia Income Maintenance Manual, § 5.3.1, addresses the date of asset eligibility. At § 5.3.1.B, the policy provides, in part:**

The SSI Medicaid Groups include: SSI-Related Medicaid, CDCSP, PAC, QDWI, QMB, SLIMB, and QII.

The asset eligibility determination for these applications must be made as of the first moment (defined as 12:00 a.m. of the first day) of the month of eligibility.

The client is not eligible for any month in which countable assets are in excess of the limit, as of the first moment of the month. Increases in countable assets during one month do not affect eligibility unless retained into the first moment of the following month...

**West Virginia Income Maintenance Manual, § 5.3.2, provides, in part:**

Money counted as income when received becomes an asset if retained within the month after the month of receipt...

**West Virginia Income Maintenance Manual, Chapter 4, Appendix A, notes that 300% of the SSI amount is \$2,901.**

## **DISCUSSION**

The Appellant requested a hearing to appeal the Respondent’s denial of his Medicaid application due to excessive income and assets. The Respondent must show, by a preponderance of the evidence, that it correctly denied the Appellant’s Medicaid application on this basis.

The Appellant applied for Medicaid, specifically Long Term Care Medicaid for ADW services. The Appellant applied as a one-person assistance group (AG), and policy sets the limits for assets and income based on household size and program type. The Appellant’s type of Medicaid is SSI-Related Medicaid and uses the limits for that program type. Policy sets the income limit as 300% of the maximum SSI payment, which was \$2,901 at the time of the Appellant’s application. Policy sets the asset limit as \$2,000.

The Appellant receives RSDI, or Social Security, and a regular pension. Policy notes that both types are countable income, and explicitly states that the gross amount, or the amount before deductions, is the amount that must be counted. The Board of Review does not have the authority to grant policy exceptions to this rule, or any other rule set by policy. The Appellant receives RSDI of \$2,451 monthly, and a pension of \$592.05 monthly. The total, \$3,043.05, exceeds the income limit. The Respondent correctly determined that the Appellant was over the income limit for the Appellant's Medicaid category.

The Appellant's assets must be counted "...as of the first moment (defined as 12:00 a.m. of the first day) of the month of eligibility." The Appellant's checking account records (Exhibit D-4, page 4 of the bank statement dated January 3, 2025, daily balance entry as of December 31, 2024) show a balance of \$5,401.65. However, the money the Appellant received in this account counted as income does not become an asset until retained in the account into the following month. For this reason, the Respondent subtracted money received (using the net portion or RSDI actually deposited into the account, or \$2,217, and the regular pension of \$592.05) to derive the countable asset determination of \$2,592.60 shown on the Respondent's denial letter. The Respondent correctly determined the Appellant exceeded the asset limit for the Appellant's category of Medicaid.

The Appellant's representative noted the Appellant's financial circumstances had changed. Bank statements were provided for later dates, but they cannot be used in conjunction with the January 2025 application. Policy at § 5.3.1 dictates that the asset eligibility determination for these applications must be made as of the first moment of the month of eligibility. The Appellant's representative asserted that the Appellant was close to the income limit, but the Board of Review cannot make exceptions to this policy provision.

Based on the reliable evidence and testimony at the hearing, the Respondent correctly determined the Appellant exceeded the asset and income limits for Long Term Care Medicaid for ADW services. The Respondent correctly denied the Appellant's Long Term Care Medicaid application for ADW services on these bases.

### **CONCLUSIONS OF LAW**

- 1) With countable income of \$3,043.05, the Appellant exceeds the applicable Medicaid income limit of \$2,901.
- 2) With countable assets of \$2,592.60, the Appellant exceeds the applicable Medicaid asset limit of \$2,000.
- 3) Because the Appellant exceeds the applicable income and asset limits for Medicaid, the Respondent must deny the Appellant's ADW application.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's denial of the Appellant's Long Term Care Medicaid application for ADW services.

**ENTERED this \_\_\_\_\_ day of July 2025.**

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**Todd Thornton  
State Hearing Officer**