



July 31, 2025

[REDACTED]

RE: [REDACTED] v. WVDoHS-BFA  
ACTION NO.: 25-BOR-2256

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,

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

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

cc: Kristyne Hoskins, BFA

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

[REDACTED],

**Appellant,**

v.

**Action Number: 25-BOR-2256**

**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 July 30, 2025, on an appeal filed with the Board of Review on June 11, 2025.

The matter before the Hearing Officer arises from the June 11, 2025 decision by the Respondent to terminate the Appellant's husband's Medicaid assistance.

At the hearing, the Respondent appeared by Kristyne Hoskins, Economic Service Worker Senior. Appearing as a witness for the Respondent was Thomas Lutz, Economic Service Worker Senior. The Appellant was self-represented. Appearing as a witness for the Appellant was [REDACTED] [REDACTED] Appellant's husband. All witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Case Comments dated March 24, 2023
- D-2 Notice of Decision dated March 27, 2023
- D-3 Supplemental Nutrition Assistance Program Application dated April 10, 2023
- D-4 Case Comments dated April 18, 2023
- D-5 Application for Benefits dated July 5, 2023
- D-6 Notice of Decision dated July 11, 2023
- D-7 Case Comments dated July 10, 2023
- D-8 CSLR Form dated May 21, 2025
- D-9 Case Comments dated June 10, 2025

- D-10 Email Correspondence with BFA Systematic Alien Verification for Entitlement program dated June 16, 2025
- D-11 Notice of Decision dated June 11, 2025
- D-12 West Virginia Income Maintenance Manual Chapter 7 excerpt
- D-13 West Virginia Income Maintenance Manual Chapter 15.4

**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's husband, [REDACTED], was approved for Medicaid services in March 2023.
- 2) Both the Appellant and her husband have refugee status from 2016. (Exhibit D-10)
- 3) [REDACTED] was granted lawful permanent residence to the United States on December 14, 2021. (Exhibit D-10)
- 4) [REDACTED] is considered a qualified noncitizen.
- 5) [REDACTED] is subject to a five-year waiting period before he can be considered for Medicaid eligibility.
- 6) [REDACTED] five-year waiting period expires December 2026.
- 7) The Respondent erroneously approved [REDACTED] March 2023 Medicaid eligibility.
- 8) On May 13, 2025, the Appellant completed a redetermination for benefits. (Exhibit D-8)
- 9) On June 11, 2025, the Respondent issued notice to the Appellant informing of her [REDACTED] ineligibility for Medicaid effective June 30, 2025 citing the reason for the termination as "receiving SSI Related/Non-Cash Assistance Medicaid". (Exhibit D-11)

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 15.7 documents in part:

To be eligible for WV WORKS, Medicaid, the West Virginia Children's Health Insurance Program (WVCHIP), or the Supplemental Nutrition Assistance Program (SNAP), an individual applying must be a resident of the United States (U.S.) as a citizen or a legal noncitizen and meet eligibility requirements for each program. Among those ineligible are noncitizen visitors, tourists, diplomats, and students who enter the U.S. temporarily with no intention of abandoning their residence in a foreign country.

A non-qualified noncitizen or ineligible noncitizen residing in the U.S. who requires emergency medical care may qualify for Medicaid for the length of time medically required to avert the medical emergency.

West Virginia Income Maintenance Manual Chapter 15.7.5.A documents:

A person must be a U.S. citizen, U.S. national, or a qualified noncitizen eligible to receive benefits.

- For the purposes of qualifying as a U.S. citizen, the U.S. as defined by the INA includes the fifty states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands. Nationals from American Samoa or Swains Island are also regarded as U.S. citizens for purposes of Medicaid.
- Individuals who meet the eligibility requirements of Medicaid, but who are not citizen or nationals, are Medicaid eligible only as provided below.

Applicants for Medicaid whose presented documents raise questions about their noncitizen status must provide documentation of their citizen/noncitizen status before eligibility can be determined.

West Virginia Income Maintenance Manual Chapter 15.7.5.B.1 documents:

A qualified noncitizen is:

- A noncitizen who is lawfully admitted for permanent residence (LPR) under the INA and was admitted before August 22, 1996
- A noncitizen who is granted asylum under Section 208 of the INA, eligible for seven years from entry to U.S.
- A refugee who is admitted to the U.S. under Section 207 of the INA, including immigrants who have been certified by the U.S. DHHS to be victims of a severe form of trafficking in persons in accordance with the victims of Trafficking and

Violence Protection Act of 2000 (P.L.106-386), and Afghan and Iraqi special immigrant visa holders eligible for seven years from entry to the U.S.

- A noncitizen whose deportation is being withheld under Section 243(h) of the INA, eligible for seven years from date of status
- An Amerasian immigrant under 584 of the FOEFRPAA who entered the U.S. within the last five years, participation limited to seven years from entry into the U.S.
- A Cuban or Haitian entrant under Section 501(e) of the REAA who entered the U.S. within the last five years, participation limited to seven years from entry
- An American Indian born in Canada to whom the provisions of 8 U.S.C. 1359 apply
- A member of an Indian tribe as defined in 25 U.S.C. 450B(e)
- An honorably discharged veteran, his spouse, and unmarried dependent children
- A noncitizen who is active duty in the U.S. Armed Forces, other than duty for training, their spouse, and unmarried dependent children
- The surviving spouse of a deceased veteran or service member, provided the spouse has not remarried and the marriage fulfills the following requirements:
  - Married for at least one year; or
  - Married before the end of a fifteen-year time span following the end of the period of military service in which the injury or disease was incurred or aggravated; or
  - Married for any period if a child was born of the marriage or was born before the marriage.
- Noncitizens receiving SSI
- Compact of Free Association (COFA) migrants, effective December 27th, 2020
- Ukrainian nationals who enter the United States as parolees on or between February 24, 2022, and September 30, 2024.
- Ukrainian nationals who are paroled into the U.S. after September 30, 2024 and are the spouse or child of a parolee described above, or who is the parent, legal guardian, or primary caregiver of a parolee described above who is determined to be an unaccompanied child.
- Eligible parolees can also include individuals other than Ukrainian nationals (i.e., individuals who are stateless or have another nationality) who last habitually resided in Ukraine.

Qualified noncitizens subject to a five-year waiting period:

- A noncitizen who is lawfully admitted to the U.S. for permanent residence (LPR) on or after August 22, 1996, and has been a qualified noncitizen for more than five years
- A noncitizen who is paroled into the U.S. under Section 212(d)(5) of the INA for at least one year and has been a qualified noncitizen for more than five years
- A noncitizen who is granted conditional entry pursuant to Section 203(a)(7) of the INA and has been a qualified noncitizen for more than five years

- A noncitizen who is a battered spouse or battered child the non-abusive parent of a battered child, or a child of a battered parent and has been a qualified noncitizen for more than five years

West Virginia Income Maintenance Manual Chapter 9.3.2.C.3 concerning notices for Medicaid and WV CHIP documents:

The notice must include:

- The specific action being taken;
- The date that the action is effective;
- The reason for the action;
- The IMM section on which the decision is based; and
- Any other action taken.

The following must be included as appropriate:

- For Closures: The fact that the Medicaid AG is being closed.
- For Removal of a Client from the Medicaid AG: The name of the client being removed.
- For a Change to a Spenddown AG: The fact that the eligibility status has changed, reason for and the effective date of the change, beginning and ending dates of the new Period of Certification (POC).

## **DISCUSSION**

Policy mandates that for Medicaid eligibility purposes, an individual must be a United States citizen, a United States national, or a qualified noncitizen. A noncitizen who is lawfully admitted to the United States for permanent residence on or after August 22, 1996, and has been a qualified noncitizen for more than five years is considered a qualified noncitizen and subject to a five-year waiting period to be considered for Medicaid eligibility.

In March 2023, the Appellant's husband was approved for Medicaid eligibility. During the completion of a May 2025 redetermination for benefits, the Respondent determined that the Appellant's husband was a qualified noncitizen and subject to a five-year waiting period for Medicaid eligibility. On June 11, 2025, the Respondent terminated Medicaid assistance for the Appellant's husband, effective June 30, 2025, citing a reason for termination as "receiving SSI Related/Non-Cash Assistance Medicaid." The Appellant appeals the Respondent's decision. The Respondent must prove by a preponderance of the evidence that it correctly terminated the Medicaid assistance.

Kristyne Hoskins, Economic Service Worker Senior, testified that the Respondent had erroneously approved the Appellant's husband's Medicaid eligibility due to a worker error until the May 2025 redetermination of benefits. Both the Appellant and her husband have refugee status and have obtained lawful permanent residence. Information from the Respondent's Systematic Alien Verification for Entitlement (SAVE) indicated that the Appellant's husband was granted lawful

permanent residence status on December 14, 2021, but has not met the five-year requirement to receive benefits. (Exhibit D-10) The Appellant's husband may obtain consideration for Emergency Medicaid while serving the five-year waiting period.

The Appellant testified that her husband had a previous hospitalization for open heart surgery and continues to require medication. Testimony revealed that the hospitalization occurred while receiving medical benefits in error; thus, the expenses were covered under Medicaid programs. According to the Respondent's witness, any future hospitalizations would need to be considered under Emergency Medicaid.

Evidence is clear that the Appellant's husband obtained his lawful permanent residence after August 22, 1996 and is subjected to a five-year waiting period for eligibility ending in December 2026. Based on his qualified noncitizen status, the Appellant's husband is not Medicaid eligible. However, policy requires that notice resulting in adverse action for Medicaid states the specific action being taken, the date the action is effective, and the reason for the action. Notice issued to the Appellant fails to outline the qualified noncitizen status as the reason for Medicaid termination and only lists "receiving SSI related/Non-Cash Assistance Medicaid". Based on this information, the Appellant was improperly notified of the Medicaid closure. Therefore, the termination of Medicaid benefits cannot be affirmed. The matter is remanded to the Respondent for issuance of proper notification concerning the termination of Medicaid assistance.

### **CONCLUSIONS OF LAW**

- 1) To be eligible for Medicaid, an applicant must be a resident of the United States as a citizen or legal noncitizen and meet eligibility requirements.
- 2) Policy defines a qualified noncitizen subject to a five-year waiting period as a noncitizen who is lawfully admitted to the United States for permanent residence on or after August 22, 1996, and has been a qualified noncitizen for more than five years.
- 3) The Appellant's husband was lawfully admitted to the United States for permanent residence on December 14, 2021 and has not met the five-year waiting period.
- 4) The Appellant's husband received Medicaid benefits erroneously from March 2023 until June 2025.
- 5) Policy requires that Medicaid notice of an effective action states the specific action, the effective date of action, reasoning for the action and the Income Maintenance Manual section on which the decision is based. Notice of the Medicaid termination failed to outline a specific reason for the Medicaid termination.
- 6) The Appellant was improperly notified of the Medicaid termination.

**DECISION**

It is the decision of the State Hearing Officer to REVERSE the action of the Respondent to terminate Medicaid eligibility. The matter is remanded to the Respondent for issuance of a proper notice of Medicaid termination.

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

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**Eric L. Phillips**  
**State Hearing Officer**