



October 30, 2025

[REDACTED]

RE: [REDACTED] v. WV DoHS  
ACTION NO.: 25-BOR-2733

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 Health and Human Resources. 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: Alanna Cushing, WV DoHS  
Jennifer Mynes, WV DoHS

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

[REDACTED],

**Appellant,**

**v.**

**Action Number: 25-BOR-2733**

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on October 28, 2025.

The matter before the Hearing Officer arises from the Respondent's termination of the Appellant's Adult Medicaid benefits as outlined in a notice dated August 18, 2025.

At the hearing, the Respondent appeared by Alanna Cushing, HHR Specialist Senior, WV DoHS. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Decision dated August 18, 2025
- D-2 West Virginia Income Maintenance Manual Chapter 4, Appendix A
- D-3 West Virginia Income Maintenance Manual Chapter 4.3.2

**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 is a recipient of Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits.
- 2) On August 18, 2025, the Respondent notified the Appellant that her Medicaid benefits would be terminated effective September 2025 because her income is excessive for the program (Exhibit D-1).
- 3) The Appellant's Medicaid benefits were continued pending her appeal.
- 4) The Appellant receives gross unearned disability income of \$2,900 per month from a [REDACTED] Policy.
- 5) The Appellant purchased the [REDACTED] Policy while working at [REDACTED].
- 6) The Appellant became disabled and has not been employed by [REDACTED] since March 2023.
- 7) The Appellant is a one-person Assistance Group for MAGI Medicaid purposes.

## **APPLICABLE POLICY**

Code of Federal Regulations, 42 CFR §435.119 provides the following information concerning Adult Medicaid coverage:

### **Coverage for individuals age 19 or older and under age 65 at or below 133 percent Federal Poverty Level**

- (a) ***Basis.*** This section implements section 1902(a)(10)(A)(i)(VIII) of the Act.
- (b) ***Eligibility.*** Effective January 1, 2014, the agency must provide Medicaid to individuals who:
  - (1) Are age 19 or older and under age 65;
  - (2) Are not pregnant;
  - (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act;
  - (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with [subpart B of this part](#); and
  - (5) Have household income that is at or below 133 percent FPL for the applicable family size.

West Virginia Income Maintenance Manual Chapter 23.10.4 states the following regarding MAGI Adult Medicaid:

As a result of the Affordable Care Act (ACA), the Adult Group was created, effective January 1, 2014. Eligibility for this group is determined using MAGI methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who are aged 19 or older and under age 65.

To be eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

West Virginia Income Maintenance Manual Chapter 4.7.2 states:

MAGI-based income includes:

- Adjusted gross income (taxable income less deductions/adjustments), excluding:
  - Certain taxable American Indian/Alaska Native income
  - Taxable scholarships/awards used for educational purposes
- Non-taxable Social Security benefits
- Tax-exempt interest
- Foreign earned income

To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count, for the current month. The MAGI differs from the adjusted gross income, because MAGI accounts for additions and adjustments. The Worker uses the budgeting method established in Section 4.6.1, Budgeting Method, to anticipate future income amounts, consider past income sources, and build monthly income amounts based upon the applicant's reported income.

West Virginia Income Maintenance Manual Chapter 4.7.2.B states:

After the income has been determined in Step 1, determine if any adjustments/deductions are applicable and subtract them from the income determined in Step 1. The Worker must incorporate allowable deductions (also known as adjustments) in the calculation of MAGI-based income. These adjustments/deductions can be found on page one of IRS form 1040. Different methodologies, as shown in the table below, may be used to incorporate different types of adjustments/deductions into the income determined in Step 1...

West Virginia Income Maintenance Manual Chapter 4.3.2 states that disability pension plans paid by an employer are considered as countable income for MAGI Medicaid purposes.

The following are listed as excluded income sources for MAGI Adult Medicaid:

- ABLE Account distributions that are used for qualified disability expenses
- Adoption Assistance
- American Indian/Alaska Native Specific Income Sources
- 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
- Veteran Benefits (Disability, Pension, other)
- Worker's Compensation

Chapter 4.3.2 states that the countable and excluded sources of income listed in the policy manual are not all inclusive and payments from any source must be evaluated.

Internal Revenue Service (IRS) Publication 17 addresses **Sickness and Injury Benefits** and states:

In most cases, you must report as income any amount you receive for personal injury or sickness through an accident or health plan that is paid for by your employer. If both you and your employer pay for the plan, only the amount you receive that is due to your employer's payments is reported as income. However, certain payments may not be taxable to you...

**Cost paid by you.** If you pay the entire cost of a health or accident insurance plan, don't include any amounts you receive from the plan for personal injury or sickness as income on your tax return...

**Cafeteria plans.** In most cases, if you're covered by an accident or health insurance plan through a cafeteria plan, and the amount of the insurance premiums wasn't included in your income, you aren't considered to have paid the premiums and you must include any benefits you receive in your income. If the amount of the premiums was included in your income, you're considered to have paid the premiums and any benefits you receive aren't taxable.

IRS Publication 17 also addresses **Other Sickness and Injury Benefits** and states:

**Other compensation:** Many other amounts you receive as compensation for sickness or injury aren't taxable. These include the following amounts:

- Compensatory damages you receive for physical injury or physical sickness, whether paid in a lump sum or in periodic payments.
- Benefits you receive under an accident or health insurance policy on which either you paid the premiums or your employer paid the premiums but you had to include them in your income.

- Compensation you receive for permanent loss or loss of use of a part or function of your body, or for your permanent disfigurement. This compensation must be based only on the injury and not on the period of absence from work. These benefits aren't taxable even if your employer pays for the accident and health plan that provides these benefits.

West Virginia Income Maintenance Manual Chapter 4.7.3 states that the only allowable income disregard for MAGI Medicaid is an amount equivalent to five percentage points of 100% of the Federal Poverty Level (FPL) for the applicable MAGI household size. The 5% FPL disregard is not applied to every MAGI eligibility determination and should not be used to determine the MAGI coverage group for which an individual may be eligible. The 5% FPL disregard will be applied to the highest MAGI income limit for which an individual may be determined eligible.

West Virginia Income Maintenance Manual Chapter 4.7.4 states that 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, no disregard is necessary, and no further steps are required.

Step 3: If the result from Step 2 is greater than the appropriate limit, 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, states that the gross income limit for a one-person MAGI Medicaid Assistance Group is \$1,735 per month (133% of the Federal Poverty Level).

Code of Federal Regulations Section 435.952, Use of information and requests of additional information from individuals:

- (a) The agency must promptly evaluate information received or obtained by it in accordance with regulations under [§ 435.940](#) through [§ 435.960 of this subpart](#) to determine whether such information may affect the eligibility of an individual or the benefits to which he or she is entitled.
- (b) If information provided by or on behalf of an individual (on the application or renewal form or otherwise) is reasonably compatible with information obtained by the agency, including information obtained in accordance with [§ 435.948](#), [§ 435.949](#),

§ or 435.956, the agency must determine or renew eligibility based on such information.

(c) An individual must not be required to provide additional information or documentation unless information needed by the agency in accordance with § 435.948, § 435.949, § or 435.956 cannot be obtained electronically or information obtained electronically is not reasonably compatible, as provided in the verification plan described in § 435.945(j) with information provided by or on behalf of the individual.

(1) Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual, and resource information obtained through an electronic data match shall be considered reasonably compatible with resource information provided by or on behalf of an individual, if both the information obtained electronically and the information provided by or on behalf of the individual are either above or at or below the applicable standard or other relevant threshold.

(2) If information provided by or on behalf of an individual is not reasonably compatible with information obtained through an electronic data match, the agency must seek additional information from the individual, including—

(i) A statement which reasonably explains the discrepancy; or

(ii) Other information (which may include documentation), provided that documentation from the individual is permitted only to the extent electronic data are not available and establishing a data match would not be effective, considering such factors as the administrative costs associated with establishing and using the data match compared with the administrative costs associated with relying on paper documentation, and the impact on program integrity in terms of the potential for ineligible individuals to be approved as well as for eligible individuals to be denied coverage;

(iii) The agency must provide the individual a reasonable period to furnish any additional information required under paragraph (c) of this section.

## **DISCUSSION**

To be eligible for MAGI Adult Medicaid benefits, policy states that income must be equal to or below 133% of the FPL for the Assistance Group size. MAGI-based income includes adjusted gross income (taxable income less deductions/adjustments). The countable and excluded sources of income listed in the Respondent's policy manual are not all inclusive and payments from any source must be evaluated.

The Respondent's representative contended that the Appellant's disability payments are considered as countable income for the MAGI Adult Medicaid Program based on information concerning disability pension plans paid by an employer.

The Appellant did not dispute the amount of her income but contended that the disability payments she receives are not provided by her former employer, [REDACTED]. She stated that she purchased a long-term disability policy through [REDACTED] while she was working for the agency; however, the policy was an optional policy for employees and the employer did not contribute to the payments. She has been unable to work since 2023. The Appellant stated that she no longer pays into the policy but receives the disability payments from it.

Documentation concerning the source of disability benefits received by the Appellant was not provided during the hearing. There is no indication that the Respondent requested or was provided with the Appellant's tax return to determine whether her disability payments are considered as taxable income. There is also no indication that the Respondent sought verification of how the Appellant's disability insurance premiums were paid (i.e., through a payroll deduction, with pre-or post-tax dollars) to determine whether they should be considered as countable income for the MAGI Adult Medicaid Program.

Based on information provided during the hearing, it is impossible to verify whether the Appellant's disability income should be considered as countable or excluded income for Adult Medicaid purposes. The Respondent must obtain additional verification concerning the source and taxability of the Appellant's disability income to determine whether it is a countable or excluded source of income for MAGI Adult Medicaid.

### **CONCLUSIONS OF LAW**

- 1) To be eligible for MAGI Adult Medicaid benefits, gross income must be at or below 133% of the FPL for the household size.
- 2) The income limit for a one-person MAGI Adult Medicaid household is \$1,735 per month (133% of the FPL).
- 3) The Appellant has monthly disability income of \$2,900 from a life insurance policy she obtained during the time she was employed.
- 4) Information provided during the hearing is insufficient to determine whether the Appellant's disability income is a countable or excluded source of income for MAGI Adult Medicaid.
- 5) The Respondent must determine whether the Appellant's income is countable or excludable for the MAGI Adult Medicaid Program.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to terminate MAGI Adult Medicaid benefits. The issue is **REMANDED** to the Respondent to determine whether the Appellant's disability income should be counted or excluded for MAGI Medicaid purposes.

**ENTERED this 30th day of October 2025.**

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**Pamela L. Hinzman  
State Hearing Officer**