



October 21, 2025

[REDACTED]

RE: [REDACTED] v. DoHS/BFA  
ACTION NO.: 25-BOR-2969

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,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Jennifer Mynes, Office of Constituent Services

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

[REDACTED],

**Appellant,**

v.

**Action Number: 25-BOR-2969**

**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] [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 October 15, 2025.

The matter before the Hearing Officer arises from the September 26, 2025, decision by the Respondent to terminate WV Children's Health Insurance Program benefits.

At the hearing, the Respondent appeared by Jennifer Mynes, Office of Constituent Services. The Appellant appeared by his wife, [REDACTED]. The witnesses were placed under oath, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Termination dated September 26, 2025
- D-2 West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-3 Paystubs for Appellant dated August 21, August 28, and September 4, 2025
- D-4 Paystubs for [REDACTED] dated August 25 and September 10, 2025

**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 received WV Children's Health Insurance Program (WV CHIP) Premium benefits for his two children in a five-person household.
- 2) The Appellant underwent an annual WV CHIP redetermination in September 2025.
- 3) The Respondent determined the Appellant's combined monthly income as \$11,032.93.
- 4) The Respondent sent a notice to the Appellant on September 26, 2025, advising that WV CHIP Premium benefits would be terminated as the income exceeded the limit of \$9,413 (Exhibit D-1).

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 22 explains WV CHIP eligibility:

The West Virginia Children's Health Insurance Program (WV CHIP) is administered through the Children's Health Insurance Agency within the Department of Human Services (DoHS, the Department). WV CHIP is a means-tested health insurance program for children from birth to age 19 and pregnant women. Eligible clients are assigned to one of the following WV CHIP enrollment groups based on the countable income of the Income Group (IG):

- WV CHIP Children Gold – up to 150% of the federal poverty level federal poverty level (FPL) with limited co-payments
- WV CHIP Children Blue – over 150% of the FPL and up to 211% of the FPL with full copayments
- WV CHIP Pregnancy Blue – over 185% of the FPL and up to 211% of the FPL with full co-payments
- WV CHIP Children and Pregnancy Premium – over 211% of the FPL and up to 300% of the FPL with monthly premiums and full co-payments
- Exempt – Federal regulations exempt Native Americans/Alaska Natives from cost sharing

Even though some policies and procedures for WV CHIP are the same as those for Medicaid, medical coverage under WV CHIP is not Medicaid. WV CHIP policies and procedures have been placed in this chapter to differentiate WV CHIP from Medicaid. Where policies and procedures duplicate those for Medicaid, reference is made to the appropriate Income Maintenance Manual (IMM) chapter.

### **22.4.2 The Modified Adjusted Gross Income (MAGI) Household Income Group**

See Section 4.7 for the MAGI methodology used for determining the MAGI household income group.

### **22.4.3 The MAGI Household Needs Group**

See Section 4.7 for the MAGI methodology used for determining the MAGI household needs group

### **22.16.1 Requirements for WV CHIP Children**

Income: 150% of the FPL WV CHIP Gold  
211% of the FPL WV CHIP Blue  
300% of the FPL WV CHIP Premium

Individuals are eligible for WV CHIP when the household income is less than or equal to 300% of the FPL.

West Virginia Income Maintenance Manual Chapter 4 explains income eligibility:

#### **Appendix A: Income Limits**

100% FPL for a five-person household: \$3,138  
150% FPL for a five-person household: \$4,707  
211% FPL for a five-person household: \$6,621  
300% FPL for a five-person household: \$9,413

### **4.7 MAGI Methodology**

MAGI methodologies are used to calculate eligibility for the West Virginia Children's Health Insurance Program (WV CHIP).

#### **4.7.1 Determining Income Counted for the MAGI Household**

Income of each member of the individual's MAGI household is counted.

#### **4.7.4 Determining Eligibility**

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 (133% FPL), no disregard is necessary, and no further steps are required.

**Step 3:** If the result from Step 2 is greater than the appropriate limit (133% FPL), 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.

### **4.6 Budgeting Method**

The following method is used to determine income for the certification period or period of consideration (POC), unless information to the contrary is shown in the remaining sections of this chapter. Eligibility is determined on a monthly basis. Therefore, it is

necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the assistance group (AG). For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period.

#### **4.6.1.A Methods for Reasonably Anticipating Income**

There are two methods for reasonably anticipating the income the client expects to receive. One method uses past income and the other method uses future income. Both methods may be used for the same AG for the same certification period. The method used depends on the circumstances of each source of income. Use past income only when both of the following conditions exist for a source of income:

- Income from the source is expected to continue into the certification period or POC.
- The amount of income from the same source is expected to be more or less the same. For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income.

#### **4.6.1.B Consideration of Past Income**

The Worker must consider information about the client's income sources before deciding which income to use. The Worker must follow the steps below for each old income source.

**Step 1:** Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

**Step 2:** Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period or POC. If it is not expected to continue, the income from this source is no longer considered for use in the new certification period or POC. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If the income is expected to continue, the income source is used for the new certification period or POC and treated according to How to Use Past and Future Income below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period or POC and treated according to Consideration of Future Income below.

**Step 3:** Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period or POC, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered.

#### **4.6.1.D How to Use Past and Future Income**

After the Worker determines all of the income sources that are to be considered for use, the Worker determines the amount of monthly income based on the frequency of receipt and whether the amount is stable or fluctuates. The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income. The client is not, then, required to report fluctuating income each pay period and the Worker is not required to change income monthly. Should the client report fluctuations in the amount of income, the Worker is only required to recalculate the countable income when, in his judgment, the fluctuation will affect eligibility. All changes reported by the client must be considered, but not necessarily used. Reported changes must be recorded and the Worker must record why the reported income was or was not used.

Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Biweekly amount (every two weeks) x 2.15
- Semimonthly (twice/month) x 2

#### **DISCUSSION**

Policy stipulates that the income limit for WV CHIP Premium benefits is equal to or less than 300% of the FPL for the size of the household, or \$9,413 for a five-person household. The Respondent terminated the Appellant's WV CHIP Premium benefits when it was determined that the countable household income exceeded the allowable limit.

The Respondent's witness, Jennifer Mynes, testified that she calculated the Appellant's household income using the following paystubs submitted with the WV CHIP redetermination:

**Appellant**

August 21	\$1,802
August 28	\$1,799
September 4	\$1,681.03

An average of the three paystubs submitted was used to determine the Appellant's monthly income as \$7,570.91 (\$1,802 plus \$1,799 plus \$1,681.03 equals 5,282.03 divided by three equals \$1,760.68 multiplied by 4.3).

August 25 \$2,121.83  
September 10 \$2,121.83

The Respondent calculated [REDACTED] monthly income of \$4,561.93 by applying the bi-weekly multiplier of 2.15 (\$2,121.83 multiplied by 2.15).

The combined monthly household income was determined as \$12,132.83. Ms. Mynes testified that the Appellant's job is seasonal, and his income fluctuates throughout the year. Ms. Mynes stated she used year-to-date amounts for the Appellant to find a more accurate average of his income:

August 28 \$53,705.41 year-to-date gross earnings

Ms. Mynes stated she subtracted \$1,937 year-to-date mileage reimbursement from the Appellant's gross earnings (\$53,705.41 minus \$1,937 equals \$51,768.41) and divided by eight months to calculate the Appellant's earnings for a monthly average of \$6,471.05.

It should be noted that [REDACTED] is paid two times a month, not bi-weekly, therefore her income was incorrectly calculated. The monthly income for [REDACTED] is \$4,243.66 (\$2,121.83 multiplied by two). The total combined monthly household income is \$10,714.71.

[REDACTED] testified that her husband is a roofer, and he receives more hours and higher paychecks during the warmer months and he will begin receiving unemployment low earnings starting in November through spring. [REDACTED] contended that she cannot afford her daughter's medication, which costs approximately \$100,000 a year and has applied for the Children with Disabilities Community Services Program.

Pursuant to policy, eligibility is determined on a monthly basis, therefore, it is necessary to determine a monthly amount of income to count for the certification period.

The Respondent used an average of the Appellant's earnings received from January through August to reflect the months when his hours are affected by the weather. The Respondent correctly used year-to-date amounts to determine the income that is expected to be received during the certification period.

Policy allows for a 5% income disregard if the application of the disregard brings the income below the income limit for the program. To determine if the Appellant is eligible for the 5% disregard, the gross monthly income is divided by 100% of the federal poverty level for the size of the assistance group: \$10,714.71 divided by \$3,138 = 3.41 which is then converted to a percentage, 341%. Since the application of the 5% disregard would not bring the Appellant's income that is 341% of the federal poverty level below the allowable income limit of 300% of the federal poverty level, the disregard is not applied.

Whereas the combined monthly household income of \$10,714.71 exceeds the allowable limit of \$9,413, the Respondent acted in accordance with policy in the termination of WV CHIP Premium benefits.

## **CONCLUSIONS OF LAW**

- 1) The income limit for a five-person household for WV CHIP Premium benefits is \$9,413.
- 2) The combined monthly household income is \$10,714.71.
- 3) The application of the 5% disregard does not bring the household income at or below 300% of the federal poverty level.
- 4) The combined income is excessive to continue receiving WV CHIP Premium benefits.

## **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's WV Children's Health Insurance Program Premium benefits.

**ENTERED this 21<sup>st</sup> day of October 2025.**

---

**Kristi Logan**  
**Certified State Hearing Officer**