



November 18, 2025

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 25-BOR-3126

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 (DoHS). 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,

Tara B. Thompson, MLS
Certified State Hearing Officer
Member, State Board of Review

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

cc: Linda Seals — DoHS

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

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-3126

**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 November 12, 2025.

The matter before the Hearing Officer arises from the Respondent's decision on August 20, 2025 to deny the Appellant's continued eligibility for Specified Low-Income Medicare Beneficiary (SLIMB) benefits.

At the hearing, the Respondent appeared by Linda Seals, DoHS. The Appellant appeared and was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

None

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 was a recipient of SLIMB benefits for a one-person Assistance Group (AG).
- 2) On August 20, 2025, the Respondent issued a notice advising the Appellant her SLIMB benefits would end after August 31, 2025, because her income exceeded the eligibility limit.
- 3) The notice advised that [REDACTED] would not receive the benefit because he receives Supplemental Security Income (SSI).
- 4) The *Statement of Calculations* provided on the notice reflected \$0 gross income, \$0 deductions, \$0 countable net income, and \$0 medically needy income limit.
- 5) The Appellant and her spouse are enrolled in Medicare benefits.
- 6) The Appellant and her spouse receive unearned income from the Social Security Administration (SSA).
- 7) The Appellant and her spouse receive \$150 unearned monthly rental income.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 4.3 *Charts of Income Sources*, Chart 1 lists sources of income and how they are treated for Medicare Premium Assistance Groups, including Specified Low-Income Medicare Beneficiary (SLIMB):

64. *Rental Income (also see Roomer/Boarder Provider Income)*

- a. Non-business (not self-employment in the rental business): For Medicare Premium Assistance, income is counted as unearned. Even when unearned, it is considered self-employment to determine gross profit.

73. *Retirement, Survivors, and Disability Insurance (RSDI)* is counted as unearned income. Count the amount of the client's entitlement. This includes any amount deducted for Medicare, if applicable.

75. *Roomer/Boarder Provider Income* is counted as earned, self-employment for Medicare Premium Assistance.

82. *Social Security Payments* are counted as unearned income (See RSDI).

85. *Supplemental Security Income (SSI)* is not counted when determining Medicare Premium Assistance eligibility.

WVIMM §§ 3.15.1 through 3.15.1.A *QMB, SLIMB, and QI-1* instructs that when eligible spouses are both members of the AG, they must receive the same level of coverage. Only the individual or spouses who are eligible for QMB, SLIMB, or QI-1 are included in the AG.

WVIMM § 3.15.2. *The Income Group (IG)* provides that for eligible spouses, the income of both individuals must be counted.

WVIMM § 3.15.2.C *Eligible Individual with Ineligible Spouse* provides that the Respondent must consider the income of the ineligible spouse to determine if it must be deemed. See Chapter 4.

WVIMM § 3.15.3.B *The Needs Group — Eligible Spouses* provides that the income limit for two persons is used.

WVIMM § 3.15.3.C *Eligible Individual with Ineligible Spouse, No Income Deemed* provides that the income limit for a single individual is used.

WVIMM § 3.15.3.D *Eligible Individual with Ineligible Spouse, Income is Deemed* provides that the income limit for two persons is used.

WVIMM § 4.12.1 *Determining Eligibility* provides that countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. Deemed income is addressed in Section 4.12.2

WVIMM § 4.12.1.A *Self-Employment* provides that gross profit is determined the same way it is for Aid to Families with Dependent Children (AFDC)-Related Medicaid. See Section 4.16.

WVIMM § 4.12.2 *Deeming* instructs the Respondent to see Section 4.14.4 for SSI deeming procedures.

WVIMM § 4.14.4.D *Deeming* provides that when determining income to be deemed to an eligible individual, certain income sources outlined in Section 4.14.4.D.1 and Section 4.14.D.2, are not deemed.

WVIMM § 4.14.4.D.1 *Public Assistance Maintenance Income* provides that public assistance maintenance income of the spouse from whom income is deemed is excluded from the deeming process; therefore, it is not deemed. Public assistance income maintenance payments include SSI ... When the ineligible spouse's non-excluded income is greater than the Allocation Standard, the ineligible spouse's income is added to the eligible spouse's income. These are the SSI deeming provisions, which also require use of the couple income limit to determine eligibility for the individual when income is deemed.

WVIMM Chapter 4, Appendix A and § 4.12.1 *Medicaid for QMB, SLIMB, QI-1 — Determining Eligibility* provide that countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. To determine countable income:

- Step 1: Determine the total countable gross unearned income ...
- Step 2: Determine the total countable gross earned income ...
- Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income
- Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels ...
- If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client is eligible.

The following Medicare Premium Assistance income eligibility limits for a one-person Assistance Group (AG):

QMB:	\$1,305
SLIMB:	\$1,565
QI-1:	\$1,761

If the countable income is less than or equal to QMB, SLIMB, or QI-1 income levels, the client is eligible. Eligibility for these coverage groups is determined as follows:

- QMB: Income is less than or equal to 100% FPL
- SLIMB: Income is greater than 100% FPL, but less than or equal to 120% FPL
- QI-1: Income is greater than 120% FPL but less than or equal to 135% FPL

WVIMM § 4.14.2.B.1 \$20 Disregard provides that a \$20 disregard is applied to the total gross unearned income.

NOTIFICATION

WVIMM § 9.3.1 Notification of Action Resulting in a Change in Benefits – Advanced Notice Requirements instructs that a client must receive advanced notice in all situations involving adverse actions except those described in the *Adverse Actions Not Requiring Notice* section. The advanced notice requirement is that notification be mailed to the client at least 13 days before the first day of the month in which the benefits are affected. The date on the notice must be the date it is mailed.

WVIMM § 9.3.1.A provides that Medicaid adverse actions include AG closure and removal of a client from the AG.

WVIMM § 9.3.1.C Beginning and Ending of the Advanced Notice Period provides that the 13 day advanced notice period begins with the date shown on the notification letter and ends after the 13th calendar day has elapsed.

EXAMPLE: An adverse action notice is dated and mailed on October 18. The 13-day advance notice period begins on October 18. The 13-day advance notice period ends at the close of the business day on October 31. The action is effective no earlier than November 1.

WVIMM § 9.3.1.D.2 Advance Notice Period Expires the First of the Following Month or Later provides that if the 13-day advance notice period does not expire until the first day of the following

month or later, the change is not effective until the month following the end of the 13-day advance notice period.

DISCUSSION

During the hearing, the Respondent's representative testified that the Appellant's SLIMB eligibility review was completed on August 20, 2025. After completing her SLIMB eligibility review, the Respondent determined the Appellant was ineligible for continued Medicare Premium Assistance. The Appellant disputed the Respondent's decision and requested that her benefits be restored. During the hearing, the Appellant disputed the amount of income used to determine her Medicare Premium Assistance eligibility.

Authority has not been granted to the Board of Review to change the income limits established in the policy. The Hearing Officer cannot judge the policy and can only determine if the Respondent followed the policy when deciding the Appellant's eligibility for Medicare Premium Assistance.

The Respondent bears the burden of proof to demonstrate by a preponderance of evidence that the Appellant was correctly denied SLIMB because her income exceeded the eligibility limit.

Testimony provided by the Respondent's representative was unclear whether the Appellant's spouse would have been eligible or ineligible. The Appellant testified that she reported both she and her spouse were receiving Medicaid Part B but the Respondent's record did not reflect this information. Without affirming whether the Appellant's spouse was eligible for the benefit group at the time of the Respondent's decision, it cannot be determined whether the Respondent correctly excluded him when deciding the Appellant's eligibility.

Income Eligibility

Pursuant to the Respondent's representative's testimony, the Respondent completed the Appellant's Medicare Premium Assistance eligibility review on August 20, 2025. According to the policy, income received in the 30 days before application must be considered when deciding the AG's Medicare Premium Assistance. During the hearing, the Respondent's representative testified that the Appellant's continued SLIMB eligibility was denied because her husband began receiving SSA income. The Respondent's representative testified that because of the addition of her husband's income, the Appellant was over the SLIMB income eligibility limit.

Both parties were permitted to submit documentary evidence during the hearing; however, no documentary evidence was entered. During the hearing, the Respondent's representative testified that the income used to determine the Appellant's SLIMB eligibility included \$1,482 Social Security Disability Insurance (SSDI), \$1,772 in Social Security Retirement, and \$150 unearned rental income. The Respondent's representative testified that the total income used to determine the Appellant's eligibility was \$3,243 gross unearned income. During the hearing, the Respondent's representative testified that no deductions were applied when determining the Appellant's income eligibility.

The income amounts reported by the Respondent's representative do not calculate to \$3,243 gross unearned income:

$$\$1,482 + \$1,772 + \$150 = \$3,404$$

According to the policy, allowable disregards and deductions must be subtracted from the countable income to determine Medicare Premium Assistance eligibility. Pursuant to the policy, a \$20 disregard is applied to the total gross unearned income. The evidence did not reveal that the Respondent correctly applied an unearned income disregard when deciding the Appellant's SLIMB income eligibility.

Policy instructions provide that rental income must be considered as unearned self-employment income and that gross profit must be determined when calculating eligibility for Medicare Premium Assistance. The submitted evidence did not establish that the Respondent followed this process.

Pursuant to the policy, income is counted for both eligible spouses. The notice reflected that \$0 income was used when determining the Appellant's eligibility and stipulated that [REDACTED] was ineligible for SLIMB because he was a recipient of SSI, not SSA retirement income. According to the policy, SSI is excluded when determining Medicare Premium Assistance eligibility. The policy further instructs that the Respondent must consider if the ineligible spouse's income must be deemed. However, the Respondent's representative did not reliably clarify that the Appellant's spouse was an eligible spouse, ineligible spouse, or how it was determined whether his income should be deemed. As the notice indicated that the Appellant's spouse was ineligible due to receiving SSI, the Respondent's argument that the Appellant's spouse's income must be included when determining the Appellant's SLIMB eligibility cannot be affirmed.

The Respondent's representative provided unreliable testimony regarding what income was used, the type of income used, and the calculations used by the Respondent when determining the Appellant's ongoing SLIMB eligibility. The Respondent failed to prove by a preponderance of evidence that the Respondent correctly calculated the Appellant's countable income when deciding her ongoing SLIMB eligibility.

Notification

While the policy permits the Respondent to tell the client the status of her eligibility, the Respondent is required to notify the Appellant in writing of the final decision regarding her ongoing eligibility and provide the reason for the decision. The policy stipulates that the Respondent must issue 13-days advanced notification before terminating the Appellant's SLIMB eligibility.

Pursuant to the evidence, 13-days after the notice of adverse action issued by the Respondent on August 20, 2025, was September 2, 2025. According to the submitted testimonial evidence, the Respondent terminated the Appellant's SLIMB benefits before the end of the advanced notice period. Even if the evidence had proved that the Appellant was over the SLIMB income eligibility

limit, the Respondent would not have been permitted to terminate the Appellant's SLIMB eligibility until October 2025, not September 1, 2025.

According to the submitted information, the Appellant was prejudiced by the Respondent's failure to provide her with 13-days advanced notice of SLIMB eligibility termination. However, because the evidence failed to prove that the Appellant was over the SLIMB income eligibility limit, the issue of inadequate notice of adverse action is moot.

CONCLUSIONS OF LAW

- 1) The Respondent may terminate Medicare Premium Assistance when the AG's income exceeds the eligibility limit.
- 2) The preponderance of evidence failed to establish a reliable amount of income for the AG.
- 3) Because the evidence failed to establish a reliable amount of income for the AG, the Respondent's decision to terminate the Appellant's SLIMB eligibility was incorrect and the matter must be remanded for proper evaluation of the Appellant's income eligibility for Medicare Premium Assistance.
- 4) Because the Respondent incorrectly terminated the Appellant's SLIMB eligibility, the Appellant's benefits must be retroactively restored.
- 5) As the Respondent failed to prove that the Appellant's SLIMB benefits were correctly terminated, the issue of improper notice of adverse action is moot.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's SLIMB eligibility after August 31, 2025. It is hereby **ORDERED** that the Appellant's SLIMB eligibility be retroactively restored. The matter is **REMANDED** for proper evaluation of the Appellant's income eligibility and issuance of proper notice of decision. The Appellant retains the right to appeal anew any subsequent denial of eligibility made by the Respondent.

ENTERED this 18th day of November 2025.

Tara B. Thompson, MLS
Certified State Hearing Officer