



December 18, 2025



RE: [REDACTED] v. WV DoHS BFA
ACTION NO.: 25-BOR-3241

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 people 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,

Amy Hayes
State Hearing Officer
Member, State Board of Review

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

cc: Kimberly Bone, Department Representative
Gary Michels, Assistant Attorney General
Jason "Bob" Wible, Assistant Attorney General
[REDACTED] Appellant Representative
[REDACTED] Appellant Representative

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

[REDACTED]

Appellant,

v.

Action Number: 25-BOR-3241

**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 December 10, 2025.

The matter before the Hearing Officer arises from the October 23, 2025 denial by the Respondent of the Appellant's Long-Term Care Medicaid application due to excessive assets.

At the hearing, the Respondent appeared by Gary Michels, Assistant Attorney General, and Jason "Bob" Wible, Assistant Attorney General. Appearing as witness for the Respondent was Kimberly Bone, Economic Service Worker, West Virginia Department of Human Services (DoHS). The Appellant was represented by [REDACTED] WV Medicaid Advisors, and [REDACTED] counsel of record for [REDACTED]. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Summary of evidence submitted
- D-2 First page of application for Long Term Care Medicaid for [REDACTED]
- D-3 Notice from the Department of Human Services (DoHS) to [REDACTED] dated October 23, 2025, denying [REDACTED] eligibility for Long Term Care Medicaid
- D-4 Notice from DoHS to [REDACTED] dated October 23, 2025, approving [REDACTED] eligibility for Long Term Care Medicaid
- D-5 Email request for fair hearing from [REDACTED] to Drema Berry
- D-6 Pages 1 and 3 of a Certificate of Group Life Insurance for "Insured Name: [REDACTED]," issued by the [REDACTED]
- D-7 Income Maintenance Manual Section 5.5.27

Appellant's Exhibits:

- A-1 Email chain dated September 9, 2010
- A-2 Email chain dated October 3, 2011
- A-3 Email chain dated June 29, 2012
- A-4 Email chain dated January 29, 2014
- A-5 Email chain dated November 17, 2014
- A-6 Email chain dated May 19, 2016
- A-7 Letter dated September 11, 2024 from [REDACTED]
- A-8 List of closing balances and assets for [REDACTED] and other asset documentation
- A-9 [REDACTED] Certificate for insured name [REDACTED]
- A-10 Notice from the Department of Health & Human Resources (DHHR) to [REDACTED] dated March 7, 2023, stating his eligibility for Medicaid
- A-11 List of closing balances and assets for [REDACTED] and other asset documentation
- A-12 [REDACTED] Certificate for insured name [REDACTED]
- A-13 Notice from DHHR to [REDACTED] dated April 8, 2024
- A-14 List of closing balances and assets for [REDACTED] and other asset documentation
- A-15 [REDACTED] Certificate for insured name [REDACTED]
- A-16 Notice from the Department of Human Services (DoHS) to [REDACTED] dated October 22, 2025, with a beginning date of eligibility for payment October 1, 2025
- A-17 Email chain dated September 12, 2025
- A-18 Email chain dated October 6, 2025
- A-19 Income Maintenance Manual Section 5.3.1.B
- A-20 Income Maintenance Manual Section 5.3.4

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 admitted to a nursing facility on April 11, 2025. (Exhibit A-16)
- 2) The Appellant purchased a single premium life insurance policy on August 29, 2025, for \$331,000. (Exhibit A-15)
- 3) The single premium life insurance policy has no cash surrender value and no surrender privileges. (Exhibit A-15)
- 4) The Appellant applied for Medicaid, specifically Long Term Care, or Nursing Facility Medicaid, with a need date of September 1, 2025. (Exhibit A-16)

- 5) The Respondent must consider the Appellant's asset eligibility as of the beginning, or "first moment" of September 2025. (Exhibit A-19)
- 6) The asset limit for the Appellant's Medicaid category is \$2,000. (Exhibit D-8)
- 7) The total countable assets attributed to the Appellant for September 2025 were \$1,071.35 in liquid assets and \$331,000 for the life insurance policy. (Exhibit D-3)
- 8) Long Term Care Medicaid benefits for the Appellant were approved effective October 1, 2025. (Exhibit D-4)

APPLICABLE POLICY

The Code of Federal Regulations does not provide asset, or resource, limits at the state level, but sets general requirements as follows at 42 CFR § 435.840, in pertinent part:

§ 435.840 Medically needy resource standard: General requirements.

- (a) To determine eligibility of medically needy individuals, a Medicaid agency must use a single resource standard that meets the requirements of this section.
- (b) In States that do not use more restrictive criteria than SSI for aged, blind, and disabled individuals, the resource standard must be established at an amount that is no lower than the lowest resource standard used under the cash assistance programs that relate to the State's covered medically needy eligibility group or groups of individuals under § 435.301.
- (c) In States using more restrictive requirements than SSI:
 - (1) For all individuals except aged, blind, and disabled individuals, the resource standard must be set in accordance with paragraph (b) of this section; and
 - (2) For all aged, blind, and disabled individuals or any combination of these groups of individuals, the agency may establish a separate single medically needy resource standard that is more restrictive than the single resource standard set under paragraph (b) of this section. However, the amount of the more restrictive separate standard for aged, blind, or disabled individuals must be no lower than the higher of the lowest categorically needy resource standard currently applied under the State's more restrictive criteria under § 435.121 or the medically needy resource standard in effect under the State's Medicaid plan on January 1, 1972.
- (d) The resource standard established under paragraph (a) of this section may not diminish by an increase in the number of persons in the assistance unit. For example, the resource standard for an assistance unit of three may not be less than that set for a unit of two.

West Virginia Income Maintenance Manual, Chapter 23, describes Long Term Care Medicaid, including Nursing Facility coverage. At Section 23.11.5, this policy addresses the asset limits as follows, in pertinent part:

23.11.5.A Nursing Facility

Income	Assets
300% SSI Payment Level	\$2,000 Individual \$3,000 Couple

The Department of Human Services (DOHS) provides Medicaid to institutionalized individuals who would not otherwise be eligible for Medicaid if not in an institution. To qualify, an individual must meet the medical criteria for nursing facility or ICF admission, as well as financial criteria. SSI-Related Medicaid disability guidelines also must be met.

The determination of which income to count is the same as SSI-Related Medicaid, see Chapter 4. No income is deemed to the client. The client's monthly gross non-excluded income is compared to 300% of the maximum SSI payment for a single individual.

The determination of countable assets is the same as for SSI-Related Medicaid, see Chapter 5. The SSI-Related Medicaid asset limit for one person is used.

West Virginia Income Maintenance Manual Chapter 28 describes specific requirements for Long Term Care. Section 24.8 describes Assets, in pertinent part:

Applicants for nursing facility services must meet the asset test for their eligibility coverage groups, except for Modified Adjusted Gross Income (MAGI) groups. The asset level for those eligible in the Nursing Facility coverage group and Supplemental Security Income (SSI)-Related/Monthly Spenddown is the same as SSI-Related Medicaid.

West Virginia Income Maintenance Manual Chapter 5 describes Assets. Section 5.1 includes Definitions, in pertinent part:

ASSETS

Total real and personal property the client has available to meet financial needs, including the value of assets assigned from certain individuals. Assets may be liquid or non-liquid.

CASH SURRENDER OR CASH-IN VALUE

The amount of cash received by the owner of the policy, if redeemed before death of the insured.

See LIFE INSURANCE, FACE VALUE, TERM INSURANCE, and WHOLE LIFE INSURANCE.

CONVERSION OR SALE OF AN ASSET

The sale or exchange of an asset from liquid to non-liquid or non-liquid to liquid.

FACE VALUE

The specified amount payable on death of the insured, usually listed on the front of the policy, is the amount guaranteed and premium terms agreed upon via contract at the time of purchase.

When the premium payment specified in the contract has been fulfilled and premium payments continued to be made resulting in additional paid-up insurance, the policy's death benefit, (i.e., face value), has increased and the current amount counted.

See LIFE INSURANCE, CASH SURRENDER OR CASH-IN VALUE, TERM INSURANCE, and WHOLE LIFE INSURANCE.

LIFE INSURANCE

A contract whereby one party insures his own life, or the life of another party, for a specified amount of money.

LIQUID ASSETS

Those that are cash or payable in cash on demand, including financial instruments that can be converted to cash.

- Supplemental Security Income (SSI) Medicaid Groups: Liquid assets are those that are cash or that can be converted into cash within 20 working days. National, state, and local holidays are not working days.

See ASSETS and NON-LIQUID ASSETS.

NON-LIQUID ASSETS

Those that can be converted, or sold, for cash.

- SSI Medicaid Groups: Non-liquid assets are those that cannot be converted to cash within 20 working days.

See ASSETS and LIQUID ASSETS.

TERM INSURANCE

Insurance policies that do not have a cash surrender value.

See LIFE INSURANCE, CASH SURRENDER OR CASH-IN VALUE, FACE VALUE, and WHOLE LIFE INSURANCE.

WHOLE LIFE INSURANCE

Insurance policies that have a cash surrender value.

See LIFE INSURANCE, CASH SURRENDER OR CASH-IN VALUE, FACE VALUE, and TERM INSURANCE.

West Virginia Income Maintenance Manual Section 5.3.1.B describes Establishing Date of Asset Eligibility for Supplemental Security Income (SSI) Medicaid Groups, in pertinent part:

5.3.1.B Supplemental Security Income (SSI) Medicaid Groups

The SSI Medicaid Groups include: SSI-Related Medicaid, CDCSP, PAC, QDWI, QMB, SLIMB, and QI1.

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 Section 5.3.4 describes Accessibility of Assets for SSI-Related Medicaid, in pertinent part:

5.3.4 Accessibility of Assets

A client may not have access to some assets. To be considered an asset, the item must be owned by, or available to, the client and available for disposition. If the client cannot legally dispose of the item, it is not his asset.

West Virginia Income Maintenance Manual Section 5.3.5 describes Conversion or Sale of an Asset for SSI-Related Medicaid, in pertinent part:

5.3.5 Conversion or Sale of an Asset

Assets may be either liquid or non-liquid. An asset is converted from one form to another by sale or exchange. In addition, assets may be exchanged for assets of the same form. When assets are converted, the Worker must determine if the result of the conversion is an excluded or non-excluded asset. The result of the sale of an asset is never counted as income or as a lump-sum payment to the client. The new or converted asset must be evaluated as any other asset to determine continuing eligibility.

West Virginia Income Maintenance Manual Section 5.5 is a List of Assets for determining asset eligibility, in pertinent part:

5.5.27 Life Insurance (Cash Surrender Value)

SSI Medicaid Groups:

If the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of \$1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

DISCUSSION

The Appellant contests the decision by the Respondent to deny his application for Long Term Care (LTC) Medicaid for the month of September 2025. The Respondent's denial was based on its determination that the Appellant's assets exceeded the limit to be eligible for LTC Medicaid. The Respondent must show by a preponderance of the evidence that the Appellant had excessive assets for the program.

The Respondent determined the Appellant's countable assets for September 2025 as \$332,071.35. The Respondent's witness, Kimberly Bone, testified that the Appellant had the option to return the single premium life insurance policy purchased for \$331,000 on October 3, 2025, within thirty days of the issuance date and receive a full refund of the premium. Ms. Bone contended that because the Appellant could return the policy in September 2025 and receive a refund, he had access to the \$331,000 paid for the policy and was therefore considered an asset.

Policy stipulates that to be counted as an asset, the asset must be owned by or available to the recipient for disposition. Additionally, an asset may be converted from one form to another by sale or exchange. When assets are converted, a determination is made if the result of the conversion is an excluded or non-excluded asset. The new or converted asset must be evaluated as any other asset to determine eligibility.

The single premium life insurance policy contract was signed by the Appellant on August 29, 2025. The check paying the premium for the policy was dated August 29, 2025. The contract was valid as of that date.

The single premium life insurance policy is an excluded asset for LTC Medicaid as the policy has no cash surrender value. Pursuant to IMM policy, if the Appellant converted the life insurance policy, by returning the policy for a full refund of the premium paid, the conversion of the life insurance policy to a liquid asset would be evaluated as a countable asset or an excluded asset. If the Appellant had returned the life insurance policy for a refund, the \$331,000 premium that was paid would have been counted as an asset. However, the Appellant did not return the life insurance policy within the thirty-day time frame indicated in the policy, which would have expired on October 3, 2025. The Respondent issued its notice of denial on October 23, 2025, after the thirty-day time frame had lapsed. There was no testimony or documentation provided that the Respondent confirmed with the Appellant or the life insurance company that the policy had been returned or was still in effect at the time the Appellant's LTC Medicaid application was processed.

Furthermore, policy does not distinguish life insurance policies separately from any other non-liquid asset regarding the potential for the conversion or sale of the asset. To count the life insurance policy as an asset based on the Appellant's potential to convert the policy to a liquid asset, when this stipulation is not placed on any other type of non-liquid asset, is not supported by policy and is prejudicial to the Appellant.

The Appellant argues that the Respondent's interpretation of the policy differs in this case than from previous cases. The Hearing Official does not have the details of those cases. Each case is heard on an individual basis, and decisions are based on policy and facts in that case. The Hearing Official will determine if policy was correctly applied based on those facts alone.

Whereas the Appellant's single premium life insurance policy is an excluded asset for LTC Medicaid and the policy can only be considered an asset if sold or converted, the Respondent's decision to deny LTC Medicaid benefits for September 2025 cannot be affirmed.

CONCLUSIONS OF LAW

- 1) The Appellant purchased a single premium life insurance policy on August 29, 2025, for \$331,000, which had a “Right to Cancel” clause that expired on October 3, 2025.
- 2) Because the Appellant was a one-person assistance group (AG) applicant for Long Term Care Medicaid for nursing facility services, his countable assets must have been under \$2,000 on September 1, 2025.
- 3) The “Right to Cancel” clause in the policy is not the same as cash surrender value, so the policy is an excluded asset.
- 4) The Appellant did not sell or convert his life insurance policy.
- 5) The Respondent incorrectly attributed the value of the single premium life insurance policy as a countable asset.
- 6) The Appellant’s countable assets for September 2025 were \$1,071.35, below the \$2,000 asset limit for LTC Medicaid.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to deny the Medicaid Long Term Care Nursing Facility benefits for the Appellant for the month of September 2025.

ENTERED this 18th day of December 2025.

**Amy Hayes
State Hearing Officer**