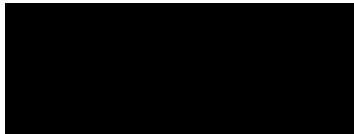




December 17, 2025



RE: [REDACTED] v. WV DoHS BFA  
ACTION NO.: 25-BOR-3318

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: Danielle Davis, WV DoHS  
Ruth Sheets, WV DoHS

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

[REDACTED]

**Appellant,**

v.

**Action Number: 25-BOR-3318**

**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 December 16, 2025.

The matter before the Hearing Officer arises from the Respondent's decision to terminate the Appellant's Adult Medicaid benefits as outlined in a notice dated November 4, 2025.

At the hearing, the Respondent appeared by Ruth Sheets, Economic Services Supervisor, West Virginia 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 November 4, 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 is a recipient of Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits.
- 2) The Appellant is a one-person Assistance Group for MAGI Medicaid purposes.
- 3) On November 3, 2025, the Appellant reported that she had begun receiving \$5,102.49 per month in annuity payments from [REDACTED] Company.
- 4) The annuity payments stem from a structured settlement the Appellant received as the result of an accident.
- 5) The annuity payments will continue for 20 years.
- 6) On November 4, 2025, the Respondent notified the Appellant that her Medicaid benefits would be terminated effective December 2025 because her income is excessive for the program (Exhibit D-1).
- 7) The Appellant is receiving continued Medicaid benefits pending a hearing decision.

## **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:
  - o Certain taxable American Indian/Alaska Native income
  - o 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 "pensions and annuities" are considered as countable income sources for MAGI Medicaid purposes.

The following are listed as excluded income sources for MAGI Adult Medicaid (the list is not all inclusive and payments from any source must be evaluated):

- 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

Internal Revenue Service (IRS) Code Title 26, Section 104(a):

**(a) In general**

Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include-

- (1) amounts received under workmen's compensation acts as compensation for personal injuries or sickness;
- (2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;
- (3) amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer);
- (4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 808 of the Foreign Service Act of 1980;
- (5) amounts received by an individual as disability income attributable to injuries incurred as a direct result of a terroristic or military action (as defined in section 692(c)(2)); and
- (6) amounts received pursuant to-
  - (A) section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796); <sup>1</sup> or
  - (B) a program established under the laws of any State which provides monetary compensation for surviving dependents of a public safety officer who has died as the direct and proximate result of a personal injury sustained in the line of

duty, except that subparagraph (B) shall not apply to any amounts that would have been payable if death of the public safety officer had occurred other than as the direct and proximate result of a personal injury sustained in the line of duty.

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).

## **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. IRS Code states that the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or periodic payments) due to personal physical injuries or physical sickness are not included in gross income (except for amounts attributable to deductions allowed under Section 213 relating to medical, etc., expenses for any prior taxable year).

The Respondent's representative contended that the Appellant's annuity payments are considered as countable income for the MAGI Adult Medicaid Program.

The Appellant did not dispute the amount of her income, but testified that the annuity payments are nontaxable.

No documentation was provided concerning the annuity payments to specify what types of damages they are intended to cover.

As MAGI-based income includes adjusted gross income (**taxable income** less deductions/adjustments), it is impossible to verify whether all or a portion of the Appellant's structured settlement annuity income should be considered as countable or excluded income for Adult Medicaid purposes. The Respondent must obtain additional verification concerning the specific type of settlement damage designation(s) in the Appellant's structured settlement (i.e., compensatory, punitive, etc.) to determine whether the annuity is a countable source of income (in total or in portion) 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 annuity income of \$5,102.49 from a structured settlement she received as the result of an accident.
- 4) The Respondent failed to show by a preponderance of evidence that the Appellant's annuity is a countable source of income for the MAGI Adult Medicaid Program.
- 5) Information provided during the hearing is insufficient for the Hearing Officer to determine whether the Appellant's annuity should be considered as countable income as no documentation was provided concerning the specification of damages in the structured settlement.
- 6) The Respondent must determine whether the Appellant's annuity is countable or excludable (in whole or in part) for MAGI Adult Medicaid.

### **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 the specific type of settlement damage designation(s) in the Appellant's structured settlement to determine whether the annuity income should be counted or excluded for MAGI Medicaid purposes.

**ENTERED this 17th day of December 2025.**

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**Pamela L. Hinzman  
State Hearing Officer**