



February 12, 2026



RE: [REDACTED] v. WVDoHS  
ACTION NO.: 26-BOR-1144

Dear Mr. [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 assure 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,

Eric L. Phillips  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: JoManda Evans-Flanagan, BFA

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

[REDACTED]  
**Appellant,**

v.

**Action Number: 26-BOR-1144**

**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 February 12, 2026, on an appeal filed with the Board of Review on January 21, 2026.

The matter before the Hearing Officer arises from the December 26, 2025 decision by the Respondent to terminate Medicaid assistance.

At the hearing, the Respondent appeared by JoManda Evans-Flanagan, Economic Service Supervisor. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

**Respondent's Exhibits:**

- D-1 Screenprint of Case Comments
- D-2 Notice of Decision dated December 26, 2026

**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 Adult Medicaid assistance.
- 2) The Appellant was the only member of his assistance group.
- 3) On December 23, 2025, the Appellant reported the onset of weekly out-of-state unemployment compensation in the \$430.00.
- 4) The Respondent utilized a monthly amount for unemployment compensation totaling \$1,849.00.
- 5) The income limit for adult Medicaid assistance is \$1,735.00.
- 6) On December 26, 2025, the Respondent issued a Notice of Decision to the Appellant informing him that his adult Medicaid benefits would terminate effective January 31, 2026, due to excessive income. (Exhibit D-2)

### **APPLICABLE POLICY**

#### **West Virginia Income Maintenance Manual Chapter 1.2.4 documents:**

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

#### **West Virginia Income Maintenance Manual Chapter 3.7.3 states, in pertinent part:**

The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer.

#### **West Virginia Income Maintenance Manual Chapter 4.7.1 documents in part:**

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

**West Virginia Income Maintenance Manual Chapter 4.7.4** documents in pertinent part:

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.

**West Virginia Income Maintenance Manual Chapter 4, Appendix A**, documents in part:

For a one-person Assistance Group, 133% of the FPL is \$1735

For a one-person Assistance Group, 100% of the FPL is \$1305

**West Virginia Income Maintenance Manual Chapter 4.6.1.B** documents in part:

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. NOTE: The year-to-date amounts on check stubs may only be used when the client has verification of all payment amounts whether used or not, but is missing one. Once the Worker has determined all the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

### **West Virginia Income Maintenance Manual Chapter 4.3.2 documents:**

Applicable MAGI Coverage Groups:

- Adult Group
- Children Under Age 19
- Parents/Caretaker Relatives
- Pregnant Women
- WVCHIP

Countable Sources of Income:

- Alimony ONLY if the alimony agreements are finalized prior to January 2019
- Census Bureau Income
- Net Farming/Fishing
- Net Rental Income
- Pensions and Annuities
- Retirement Accounts and Profit-Sharing Plans
- Self-Employment and Business Income
- Social Security Benefits
- Unemployment Benefits
- Wages, Salaries, and Tip Income

- Other:
  - o Accrued Leave Payment
  - o Advance Commission
  - o Allowances and Reimbursements
  - o Back Pay Awards
  - o Bartering Income
  - o Bonuses and Awards
  - o Child Care Provider Income
  - o College Work Study Program (this is considered taxable income under IRS rules and therefore cannot be excluded from the MAGI calculation.)
  - o Court Awards and Damages
  - o Disability Pension Plans Paid by Employer
  - o Discharged Student Loan Debt, unless the student is deceased or determined as permanently and totally disabled.
  - o Dividends and Other Stock Gains
  - o Earnings for Clergy
  - o Employee Achievement Awards
  - o Fringe Benefits
  - o Gambling Income and Losses
  - o Government Cost-of-Living Allowances (COLA)
  - o Interest Income Reported on a 1099
  - o Most Cancelled Debts
  - o National Guard Differential Wage Payments
  - o Non-Qualified Deferred Compensation Plans
  - o Prize Payments
  - o Qualified Lottery and Gambling Winnings. See Section 4.7.5.F Exception.
  - o Railroad Retirement Benefits
  - o Railroad Sick Pay
  - o Royalties
  - o Severance Pay o Sick Pay o Stock Appreciation Rights

Excluded Income Sources This list is not all inclusive, payments from any source must be evaluated. Please contact the BMS Policy Unit.

- ABLE Account distributions that are used for qualified disability expenses
- Adoption Assistance
- American Indian/Alaska Native Specific Income Sources:
  - o Distributions from Alaska Native Corporations and Settlement Trusts
  - o Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior
  - o Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:

- Rights of ownership or possession in any lands described in paragraph (3)(b) of this section; or
- Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.
- 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:
  - o Medicaid Waiver Payments made to an applicant if they live in the home full-time with the waiver client.
- Veteran Benefits (Disability, Pension, other):
  - o Disability compensation and pensions payments for disabilities paid either to veterans or their families.
  - o Grants for homes designed for wheelchair living.
  - o Grants for motor vehicles for veterans who lost their sight or the use of their limbs.
  - o Veterans' insurance proceeds and dividend paid either to veterans or their beneficiaries, including the proceeds of a veteran's endowment policy paid before death.
  - o Interest on insurance dividends left on deposit with the VA.
  - o Benefits under a dependent care assistance program.
  - o The death gratuity paid to a survivor of a member of the Armed Forces who died after September 10, 2001.
  - o Any bonus payment by a state or political subdivision because of service in a combat zone.
- Worker's Compensation

**West Virginia Income Maintenance Manual Chapter 7.2.23 documents:**

The primary responsibility for providing verification rests with the client.

It is an eligibility requirement that the client cooperate in obtaining necessary verifications, with an exception being that a client must never be asked to provide verification that he is or is not either a fleeing felon or a probation/parole violator. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information.

Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

For Medicaid Coverage Groups and WVCHIP Only:

- Client self-attestation is verified by electronic data sources.
- The client must not be required to provide verification unless information cannot be obtained electronically or self-attestation, and electronic data sources are not reasonably compatible. See Section 7.2.5 below.

Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in one of the following:

- Denial of the application
- Closure of the assistance group (AG)
- Determination of ineligibility
- Disallowance of an income deduction or an incentive payment

No case may be determined ineligible when a person outside the AG or income group (IG) fails to cooperate with verification. The following individuals are not considered part of the AG or IG but must provide verification:

- Ineligible student (SNAP – verification only required for student status)
- Non-qualified non-citizens (all programs)
- Persons who fail to attest to or verify citizenship or non-citizen status (requirements vary by program)
- Disqualified persons (WV WORKS and SNAP)
- Supplemental Security Income (SSI) recipients who would be required to be included in the WV WORKS AG, except for receipt of SSI

## DISCUSSION

Eligibility for Adult Medicaid assistance is established when a household's countable income is equal to or below 133% of the Federal Poverty Level for the appropriate needs group size.

The Respondent determined that the Appellant's countable income exceeded the income limits set forth by policy and denied the Appellant's reapplication for Adult Medicaid benefits effective December 26, 2025. The Respondent must prove by a preponderance of the evidence that the household's countable income exceeded 133% of the Federal Poverty Level or \$1,735 per month.

On December 23, 2025, the Appellant self-attested the receipt of income from out of state unemployment compensation in the weekly amount of \$430.00. The Respondent determined the Appellant's monthly income to be \$1,849.00 (\$430 x 4.3). The income limit for Adult Medicaid assistance is \$1,735.00 per month or 133% of the Federal Poverty Level. Because the Appellant's monthly income exceeded the income limits set forth by policy, the Respondent terminated the Appellant's Medicaid eligibility. On December 26, 2025, the Respondent issued a Notice of

Decision (Exhibit D-2) informing the Appellant that his income exceeded the monthly income limit of \$1735.00, resulting in the termination of his Medicaid benefits effective January 31, 2026.

The Appellant offered no contention to the income utilized in determining his Medicaid eligibility. The Appellant proffered testimony indicating that he requires medical necessary treatment and he was informed his Medicaid coverage would continue until February 28, 2026. The Appellant indicated that he as two remaining medical appointments of February 5 and February 12 and requested his Medicaid assistance remain active pending a decision from the State Hearing Officer.

The Appellant's self-attested income is 141% of the Federal Poverty Level (\$1849/\$1305 100% Federal Poverty Level=1.41 or 141% of the Federal Poverty Level). Because the Appellant's income exceeds the established income limit set forth by policy of 133% of the Federal Poverty Level, the Respondent was correct in its decision to terminate the Appellant's eligibility for Adult Medicaid assistance effective January 31, 2026.

West Virginia Common Chapters Manual 710.16.C mandates if a recipient request for hearing is timely submitted but not received until after the initiation of the adverse action, then benefits shall be reinstated pending a pre-hearing conference or hearing decision. Evidence reveals that the Respondent reinstated the Appellant's benefits pending a hearing of February 2, 2026 (Exhibit D-1); therefore, the Respondent met the request to for a continuation of benefits.

### **CONCLUSIONS OF LAW**

- 1) Eligibility for Adult Medicaid benefits is determined when an assistance group's countable income is equal to or less than 133% of the appropriate needs group.
- 2) The Appellant self-attested a monthly income of \$1,849.00. The income limit for a one-person needs group is \$1,735.00; therefore, the Appellant's income was excessive for Adult Medicaid assistance.
- 3) The Respondent's decision to terminate Adult Medicaid assistance is affirmed.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate Adult Medicaid assistance.

**ENTERED this \_\_\_\_ day of February 2026.**

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Eric L. Phillips  
**State Hearing Officer**