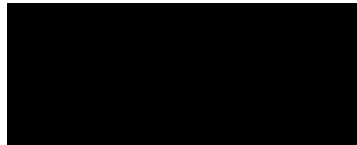




April 16, 2026



RE: [REDACTED] v. WV DoHS  
ACTION NO.: 26-BOR-1491

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Chaelyn Casteel, Esq., WV Office of Attorney General  
Amy Brown, WV DoHS  
Melissa Thompson, WV DoHS

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

████████████████████

**Appellant,**

v.

**Action Number: 26-BOR-1491**

**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 ██████████  
██████████ 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 April 8, 2026.

The matter before the Hearing Officer arises from the February 9, 2026, and February 20, 2026,  
decisions by the Respondent to increase the Appellant's contribution to her cost of nursing facility  
care.

At the hearing, the Respondent appeared by Chaelyn Casteel, Esq., Office of Attorney General.  
Appearing as witnesses for the Respondent were Amy Brown, Economic Services Supervisor, WV  
DoHS, and Melissa Thompson, Economic Service Worker, WV DoHS. The Appellant was  
represented by her son, ██████████ All witnesses were placed under oath, and the following  
documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Pre-Admission Screening created on August 6, 2025
- D-2 Pre-Admission Screening created on January 28, 2026
- D-3 Notice of Decision dated February 9, 2026
- D-4 Notice of Decision dated February 20, 2026
- D-5 Notice of Decision dated January 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 is a recipient of Long-Term Care Medicaid benefits.
- 2) A Pre-Admission Screening (PAS) was completed for the Appellant on or about August 6, 2025, upon her admittance to [REDACTED] Health & Rehabilitation (Exhibit D-1).
- 3) The Appellant's personal physician answered Question No. 38 of the August 2025 PAS, indicating that the Appellant required nursing facility placement for a period of three to six months (Exhibit D-1).
- 4) The Appellant received a \$175 Outside Living Expense (OLE) deduction from her income since the physician certified that she was likely to return to her home within six months.
- 5) On January 26, 2026, the Respondent informed the Appellant's representative that her patient responsibility to the nursing facility would increase from \$1,665.25 to \$1,698.25 per month effective March 2026 as the result of a \$33 increase in Social Security benefits (Exhibit D-5).
- 6) On or about January 28, 2026, a nursing facility physician completed a new PAS for the Appellant (Exhibit D-2).
- 7) The nursing facility physician answered Question No. 38 of the January 2026 PAS, indicating that the Appellant required nursing facility placement and would not be able to return to her home (Exhibit D-2).
- 8) Because the nursing facility physician indicated that the Appellant's stay at [REDACTED] Health and Rehabilitation was indefinite, the Respondent determined that the Appellant was no longer eligible to receive the OLE allowance.
- 9) The Respondent sent the Appellant a Notice of Decision on February 9, 2026, indicating that her patient responsibility to the nursing facility would increase in March 2026 from \$1,665.25 to \$1,873.25 per month (the \$208 increase includes the \$33 Social Security income increase and the addition of \$175 due to the loss of the OLE income deduction (Exhibit D-3).
- 10) The Respondent sent the Appellant a Notice of Decision on February 20, 2026, indicating that her patient responsibility would also increase from \$1,665.25 to \$1,873.25 per month in April 2026 (Exhibit D-4).

- 11) Both of the February 2026 Notice of Decisions state that the Appellant's contribution to her cost of care increased because "your income has increased," and both cite policy in West Virginia Income Maintenance Manual Chapters 24.7.6 and 24.5 (Exhibits D-3 and D-4).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 24.7 states:

There is a two-step income process for providing Medicaid coverage for nursing facility services to individuals in nursing facilities. The client must be eligible for Medicaid and there must be a determination to see if the client must contribute to the cost of care. Medicaid eligibility can be established by virtue of being a Qualified Medicare Beneficiary (QMB) client, of being a member of a full Medicaid coverage group, by meeting a special income test for the nursing facility coverage group, or by meeting a SSI-Related/Monthly Spenddown. See Chapter 23 to determine which coverage groups provide full coverage Medicaid. Once Medicaid eligibility is established, if applicable, the client's contribution toward his cost of care in the facility is determined in the post-eligibility process. The post-eligibility process is described in Section 24.7.3 below.

West Virginia Income Maintenance Manual Chapter 24.7.3.A addresses income disregards and items which may be deducted from the client's gross income in the post-eligibility process, including the Personal Needs Allowance, the Community Spouse Maintenance Allowance, the Family Maintenance Allowance, Outside Living Expenses, and Non-Reimbursable Medical Expenses.

West Virginia Income Maintenance Manual Chapter 24.7.3.A.4 addresses the Outside Living Expenses deduction for Long-Term Care Medicaid:

Single individuals and couples, when both spouses are institutionalized, receive a \$175 deduction from income for maintenance of a home when a physician has certified in writing that the individual, or in the case of a couple, either individual, is likely to return to the home within six months. The amount may be deducted for up to six months.

When both spouses are institutionalized, only one spouse may receive the OLE. They may choose which spouse receives the deduction.

The OLE may be deducted during subsequent nursing facility admissions if the individual meets the criteria listed above.

West Virginia Income Maintenance Manual Chapter 24.7.6 states:

If the individual is a full Medicaid coverage client or in the Nursing Facility Medicaid coverage group without a spenddown, the resource amount determined in the post eligibility process from above is his total cost contribution. Because the amount of medical expenses used to meet the client's spenddown cannot be paid by Medicaid, the spenddown amount becomes part of the client's contribution toward his cost of care, unless the client has a community spouse. This amount is added to the resource amount determined above to determine the client's total monthly contribution toward the cost of his nursing care.

West Virginia Income Maintenance Manual Chapter 24.10.2 states:

Changes that affect the client's income, assets, medical eligibility, and/or post-eligibility calculations require reevaluation of Medicaid eligibility and/or the client's contribution toward his cost of care.

### **DISCUSSION**

Policy states that if an individual is a full Medicaid coverage client or in the Nursing Facility Medicaid coverage group without a spenddown, the resource amount determined in the post eligibility process is his total cost contribution. Because the amount of medical expenses used to meet the client's spenddown cannot be paid by Medicaid, the spenddown amount becomes part of the client's contribution toward his cost of care, unless the client has a community spouse. This amount is added to the resource amount to determine the client's total monthly contribution toward the cost of his nursing home care. An Outside Living Expense deduction can be granted when a physician certifies that an individual is likely to return home from a nursing facility within six months. Single individuals and couples, when both spouses are institutionalized, receive a \$175 deduction from income for maintenance of a home when a physician has certified in writing that the individual, or in the case of a couple, either individual, is likely to return to the home within six months. The amount may be deducted for up to six months.

The Appellant's son, [REDACTED] testified that he believes the Appellant will be able to return to her home and that the Appellant's January 2026 PAS was completed by a nursing home physician who is not as familiar with her condition. The August 2025 PAS was completed by the Appellant's regular physician who [REDACTED] contended is more familiar with her health issues. [REDACTED] testified that the February 2026 Notices of Decision do not specify that the Appellant's cost of care contribution was increasing due to the loss of the OLE deduction and only cite policy from West Virginia Income Maintenance Manual Chapters 24.7.6 and 24.5. He stated that the Appellant incurred about \$10,000 in credit card charges while she was paying for the cost of her own in-home care and that the \$175 OLE allowance she was receiving was defraying the cost of her \$182 monthly payment to the credit card company. [REDACTED] acknowledged and did not dispute that \$33 of the increase to the Appellant's cost of care was the result of an increase in Social Security benefits.

The Department maintained that the Appellant is no longer eligible for the OLE deduction under policy since her January 2026 PAS states that she is not expected to return home from the nursing facility.

While the Appellant's credit card debt situation is unfortunate, policy states that the OLE is a deduction to be used **for maintenance of a home** [emphasis added] when a physician certifies in writing that the client is likely to return home from the nursing facility within six months. A physician certified on the Appellant's January 2026 PAS that the Appellant is not expected to return to her home and the issue of return versus non-return is outside the scope of a financial eligibility hearing. Therefore, the Appellant is no longer eligible to receive the OLE deduction. While the Appellant's son contended that the February 2026 Notices of Decision do not specifically cite the loss of the OLE deduction as a reason for the increase in the Appellant's cost of care contribution, the notices cite Chapter 24.7.6 of the Income Maintenance Manual, a subpart of Chapter 24.7, which addresses the client's total monthly contribution to her cost of care. Chapter 24.7 addresses the income process for Long-Term Care Medicaid, including allowable deductions such as the OLE.

### **CONCLUSIONS OF LAW**

- 1) Policy states that nursing facility residents can receive a \$175 Outside Living Expense income deduction for maintenance of a home when a physician has certified in writing that the individual is likely to return to the home within six months.
- 2) A physician certified that the Appellant is not expected to return to her home based on a January 2026 PAS assessment.
- 3) As the Appellant is not expected to return home from the facility within six months, she is no longer eligible for an OLE income deduction.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to increase the Appellant's contribution to her cost of care based on increased Social Security income and the disallowance of an OLE income deduction.

**ENTERED this 16th day of April, 2026.**

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**Pamela L. Hinzman  
State Hearing Officer**