Ann Urling
Inspector General

June 23, 2026

[redacted]

RE: [redacted] v. WV DoHS/BFA
ACTION NO.: 26-BOR-1930

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 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Fischer, Department Representative

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted],

Appellant,

v. **Action Number: 26-BOR-1930**

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 June 9, 2026, on a timely appeal filed with the Board of Review on May 8, 2026.

The matter before the Hearing Officer arises from the May 8, 2026 decision by the Respondent to deny the Appellant's application for Medicaid, specifically Long Term Care (LTC) Medicaid for nursing facility services.

At the hearing, the Respondent appeared by Jennifer Fischer. The Appellant was self-represented but not present. The Appellant appeared by [redacted] who was also a witness for the Appellant. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

D-1	Notice of decision, dated May 8, 2026
D-2	West Virginia Income Maintenance Manual, Chapter 5 (excerpt)
D-3	West Virginia Income Maintenance Manual, Chapter 5 (excerpt)
D-4	West Virginia Income Maintenance Manual, Chapter 5 (excerpt)
D-5	Bank statement for the Appellant, dated April 2, 2026 Copy of check, dated March 23, 2026
D-6	Insurance policy certificate for the Appellant, date of issue March 25, 2026 Application for [redacted], dated March 23, 2026
D-7	Reduction of Free Look Period, dated March 23, 2026

D-8	Offices of the Insurance Commissioner Review Requirements Checklist West Virginia Code, excerpt
D-9	Email chain, dates from May 1-6, 2026
D-10	[redacted] Withdrawal form (blank)

Appellant's Exhibits:

A-1	Insurance policy certificate for the Appellant, date of issue March 25, 2026 Application for [redacted], dated March 23, 2026 Reduction of Free Look Period, dated March 23, 2026
A-2	Statement of closing balances for the Appellant Bank statement for the Appellant, dated April 2, 2026
A-3	West Virginia Income Maintenance Manual, Chapter 5 (excerpt)
A-4	West Virginia Income Maintenance Manual, Chapter 5 (excerpt)
A-5	West Virginia Income Maintenance Manual, Chapter 5 (excerpt)
A-6	West Virginia Income Maintenance Manual, Chapter 5 (excerpt)
A-7	Letter from [redacted], dated May 20, 2026
A-8	Redacted emails
A-9	Redacted Board of Review decision*
A-10	Redacted Board of Review decision*
A-11	Redacted Board of Review decision*

* Board of Review decisions do not establish precedent.

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 applied for Long Term Care (LTC) Medicaid for nursing facility care for a single person, with an effective date of April 1, 2026.

2) The Respondent denied the Appellant's Medicaid application by notice dated May 8, 2026. (Exhibit D-1)

3) The Respondent's notice (Exhibit D-1) provided the basis of the action as, "The amount of assets is more than allowed for this benefit."

4) The asset limit applicable to the Appellant for a one-person LTC Medicaid application is $2,000.

5) The Appellant had a checking account balance in the amount of $209,429.19 as of March 13, 2026. (Exhibit D-5)

6) The Appellant wrote a check for $208,000 on March 25, 2026. (Exhibit D-5)

7) The Appellant wrote this check to purchase an insurance policy. (Exhibit D-5)

8) The insurance policy does not have cash surrender value. (Exhibit D-5)

9) The Appellant did not sell, convert, void, or redeem her insurance policy.

10) As of April 1, 2026, the Appellant's sole countable asset for LTC Medicaid purposes was a checking account balance of $1,429.19. (Exhibit D-5)

APPLICABLE POLICY

The Code of Federal Regulations, 42 CFR § 435.840 sets general requirements regarding resource standards used by states as follows:

> **§ 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.

The West Virginia Income Maintenance Manual, Chapter 23, § 23.11.5.A sets the asset limit for LTC Medicaid for Nursing Facility care as $2,000 for an individual.

The West Virginia Income Maintenance Manual, Chapter 5, § 5.5.27, provides the following regarding the asset treatment of life insurance policies for Medicaid:

> 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.

The West Virginia Income Maintenance Manual, Chapter 5, § 5.3.1, explains how agency programs set the date of asset eligibility, and at § 5.3.1.B, provides in part:

> 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…

Chapter 5, § 5.1 of the West Virginia Income Maintenance Manual includes asset definitions, and "cash surrender value" is defined as:

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

DISCUSSION

The Respondent denied the Appellant's application for LTC Medicaid, effective April 1, 2026, for excessive assets. The Appellant contests the Respondent's decision. The Respondent must show, by a preponderance of the evidence, that it correctly denied the Appellant's application on this basis.

The Appellant applied for LTC Medicaid for the month of April 2026 as a one-person household with an asset limit of $2,000. Agency policy ties the asset level for an individual for a given month as the amount as of the first moment of the first day of that month. The sole assets under consideration are the Appellant's checking account and an insurance policy (Exhibit D-5).

The Appellant had $209,429.19 in her checking account on March 13, 2026 (Exhibit D-5). The Appellant purchased a $208,000 insurance policy, leaving a checking account balance of $1,429.19

as of the "first moment" of April 2026. The Respondent's representative contended the Appellant's insurance policy is a countable asset – which would result in the Appellant being over the asset limit. The Appellant's representative contended the insurance policy does not have cash surrender value – which would result in only the checking account counting for LTC Medicaid asset purposes.

The documentation regarding the Appellant's purchase (Exhibit D-5) designates it as an "insurance policy," and reads, "This certificate has no Cash Value and no Surrender Privileges." Applicable agency policy requires cash surrender value for the insurance policy to be a countable asset and defines cash surrender value as the amount of cash received by the owner of the policy, if *redeemed* before the death of the insured. The Respondent's representative contended the 'right to cancel' clause creates cash surrender value for the policy, but the clause states in pertinent part, "The return of this Certificate will void it from the beginning. The single premium paid will be refunded. We will make any refund within 30 days of our receipt of this Certificate." A return of the certificate by the Appellant within the timeframe set by the policy voids the contract. Agency policy defines cash surrender value as money coming from the redemption of an active contract and does not specify or expand the definition to include a return that voids the contract. The Appellant did not sell, convert, redeem or return the insurance certificate for a refund. The Appellant's insurance policy does not have cash surrender value because the terms of the contract explicitly say so. Money received from the hypothetical return of the contract within a 30-day period is not cash surrender value because it is not money obtained from the redemption of an active contract, but rather by returning the insurance certificate and voiding the contract. Because the Appellant's insurance policy does not have cash surrender value, the Appellant's sole asset as of the beginning of April 2026 was a checking account balance of $1,429.19, which was under the applicable asset limit of $2,000. The Respondent's decision to deny the Appellant's application for LTC Medicaid in April 2026 cannot be affirmed.

CONCLUSIONS OF LAW

1) Because the Appellant applied for LTC Medicaid based on a household size of one (1), the Respondent must deny her application if she exceeds $2,000 in assets.

2) Because the Appellant owned a checking account with a balance of $1,429.19 as of the first moment of the first day of April 2026, the Respondent must count this as an asset.

3) Because the Appellant owned an insurance policy as of the first moment of the first day of April 2026, the Respondent must also count any cash surrender value for this insurance policy as an asset.

4) Because the Respondent's controlling policy qualifies "cash surrender value" as "the amount of cash received by the owner of the policy, if redeemed before death of the insured," this definition does not include cash that could be received from voiding the contract.

5) Because the option to void the contract does not create "cash surrender value," and the contract itself explicitly states there is none, the Appellant's insurance policy does not have cash surrender value.

6) Because the Appellant had countable assets of $1,429.19 as of the first moment of April 2026, the Appellant was under the $2,000 asset limit.

7) Because the Respondent denied the Appellant's application for LTC Medicaid for excessive assets, the Respondent's decision cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's May 8, 2026 decision to deny the Appellant's application for LTC Medicaid for the month of April 2026.

ENTERED this 23rd day of June 2026.

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Todd Thornton
State Hearing Officer