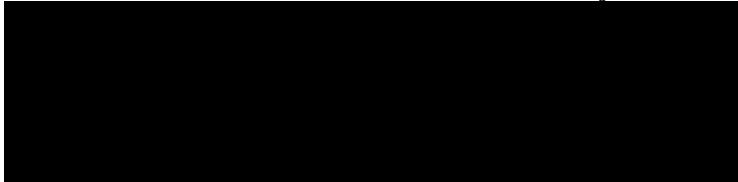




July 22, 2026



RE: ██████████ a Protected Individual, v. WV DoHS
ACTION NO.: 26-BOR-2222

Dear ██████████

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: Brandon Collins, WV DoHS

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

■, A PROTECTED INDIVIDUAL,

Appellant,

v.

Action Number: 26-BOR-2222

**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 ■ a Protected Individual. 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 July 14, 2026.

The matter before the Hearing Officer arises from the Respondent's termination of benefits under the Intellectual and Developmental Disabilities (I/DD) Waiver Medicaid Program as outlined in a notice dated April 7, 2026.

At the hearing, the Respondent was represented by Brandon Collins, Economic Service Worker for Long-Term Care, WV DoHS. The Appellant was represented by his sister, ■.

All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Chapter 23.11.5.C
- D-2 West Virginia Income Maintenance Manual Chapter 4, Appendix A

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 benefits under the Intellectual and Developmental Disabilities (I/DD) Waiver Medicaid Program.
- 2) The Respondent sent the Appellant a Notice of Decision on April 7, 2026, indicating that his I/DD Waiver benefits would stop effective May 2026 because his gross income is excessive for the program.
- 3) The Appellant received an increase in Social Security benefits following the death of his mother.
- 4) The Respondent determined that the Appellant receives \$2,114 per month in gross Social Security benefits and Veteran's Administration (VA) income of \$1,107.49 per month for a total gross income of \$3,221.49 per month.
- 5) No documentation was provided to verify the type of Veteran's Administration income received by the Appellant.
- 6) The Appellant's deceased father was a Vietnam War veteran who suffered health issues due to Agent Orange exposure.
- 7) The income limit for I/DD Waiver Medicaid benefits is \$2,982 per month (300% of the SSI Payment Level for 2026) (Exhibits D-1 and D-2).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 23.11.5.C states that the income limit for individuals receiving Home and Community-Based Services under Title XIX Waivers is 300% of the SSI Payment Level.

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.

West Virginia Income Maintenance Manual Chapter 4.3.1 states that Social Security income is considered as countable unearned income for SSI-Related Medicaid groups.

West Virginia Income Maintenance Manual Chapter 4.3.1 addresses veterans benefits and how they are counted for SSI Medicaid groups. The chart indicates that veterans benefits are generally counted as unearned income for SSI Medicaid groups, with the exception of allowances received under 38

U.S.C., Chapter 18, to a Child of a Vietnam Veteran. This concerns an individual with spina bifida who is the child of a Vietnam veteran. In this case, veterans income is not counted.

This section goes on to state that payments not based on need are compensation payments to a veteran, spouse, child or widow(er). EXCEPTION: Any portion of the VA benefit which is paid as Aid and Attendance, Housebound or Unusual Medical Expense allowance is excluded.

West Virginia Income Maintenance Manual Chapter 4.14.2 addresses income deductions for SSI-Related Medicaid coverage groups. Chapter 4.14.2.B.1 states that a \$20 disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

NOTE: The SSI \$20 disregard is not applied to any unearned income received that is based on need. This includes, but is not limited to, Veterans Affairs (VA) benefits based on need. See VA Benefits in Section 4.3.

The only other unearned income deductions listed for SSI-Related Medicaid groups include unearned income diverted to a PASS account, one-third of the child support intended for an SSI-Related child, and the portion of a lump sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual.

West Virginia Income Maintenance Manual Chapter 4.14.4.G.2 addresses withheld unearned income and states that all withheld unearned income is counted, unless an amount is being withheld to repay income that was previously used to determine Medicaid eligibility.

West Virginia Income Maintenance Manual Chapter 4, Appendix A, states that 300% of the SSI Payment Level for 2026 is \$2,982 per month.

DISCUSSION

Policy states that the income limit for I/DD Waiver Medicaid is 300% of the SSI Payment Level, currently \$2,982 per month. Social Security income is considered countable unearned income for SSI-Related Medicaid groups. VA benefits are generally counted as income for SSI-Related Medicaid groups, with the exception of allowances under 38 U.S.C., Chapter 18, to a Child of a Vietnam Veteran. This includes individuals with spina bifida who are children of a Vietnam veteran.

The Respondent contends that the Appellant's income is excessive to continue receiving I/DD Waiver Medicaid benefits.

The Appellant's sister, [REDACTED] testified that the Appellant, who has received I/DD Waiver Medicaid for more than 30 years, has severe health and cognitive disabilities, requires 24/7 care, and cannot live on his own. [REDACTED] stated that her mother passed away and she moved in with the Appellant to help keep his situation stable. She explained that she had a full-time job as a counselor in the school system but can no longer work because she has been taking care of the

Appellant. [REDACTED] testified that since she cannot work, she has no income and will have no personal health insurance. [REDACTED] stated that she cannot hire someone to care for the Appellant because it would likely cost more than the Appellant's monthly income since he requires more skilled services. The Appellant received the increase in Social Security benefits because he began drawing money from his mother's Social Security account instead of his father's account following his mother's death. The Appellant receives Veterans Administration benefits based on the record of his father, a deceased Vietnam veteran who suffered health issues due to Agent Orange exposure.

[REDACTED] contended that the Appellant only received a \$1,505.20 Social Security payment in June 2026 because the Social Security Administration withheld money owed for Medicare premiums. The Appellant began receiving \$1,911 in July 2026 (which appears to be his net Social Security payment amount after a Medicare premium of \$202.90 is subtracted from the gross benefit of \$2,114). [REDACTED] contended that the Appellant should have been eligible for I/DD Waiver benefits for June 2026 based on his lowered Social Security payment.

As withheld unearned income is considered as income under policy, and testimony indicates that the Appellant's Social Security withholding for June 2026 was for Medicare premiums, the Appellant's full gross Social Security benefit of \$2,114 is countable for June 2026.

The Appellant has disabilities and receives veterans benefits based on his deceased father's military service. Credible testimony was provided to establish that the Appellant's father was a Vietnam War veteran. The basis of the Appellant's receipt of VA benefits is unknown, and it is unclear whether the Respondent was aware that a veterans allowance is excluded as income under certain circumstances. The Respondent must determine whether the Appellant has spina bifida and receives an allowance under 38 U.S.C., Chapter 18, to a Child of a Vietnam Veteran.

CONCLUSIONS OF LAW

- 1) Policy states that the income limit for I/DD Waiver Medicaid is 300% of the SSI Payment Level, currently \$2,982 per month.
- 2) The Appellant receives VA benefits and Social Security income.
- 3) Policy states that a veterans allowance received under 38 U.S.C., Chapter 18, to a Child of a Vietnam Veteran, is excluded income.
- 4) The basis upon which the Appellant's VA benefits are received is unknown.
- 5) The Respondent must determine whether the Appellant has been diagnosed with spina bifida and is receiving veterans benefits under 38 U.S.C., Chapter 18, allowance to a Child of a Vietnam Veteran.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to terminate the Appellant's I/DD Waiver Medicaid benefits. The case is **REMANDED** to the Respondent to determine whether the Appellant's veterans income is a countable or excluded source for the I/DD Waiver Program.

ENTERED this 22nd day of July 2026.

Pamela L. Hinzman
State Hearing Officer