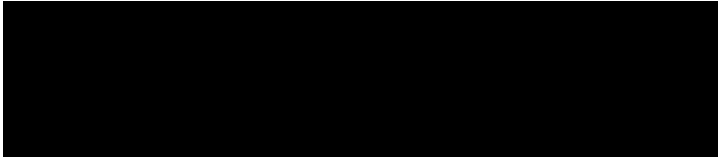




July 29, 2026



RE: [REDACTED] v. WV DoHS BFA  
ACTION NO.: 26-BOR-2177

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,

Amy Hayes  
State Hearing Officer  
Member, State Board of Review

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

cc: Chaelyn Casteel, Assistant Attorney General  
[REDACTED] Appellant Representative

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

[REDACTED]

**Appellant,**

v.

**Action Number: 26-BOR-2177**

**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 July 21, 2026.

The matter before the Hearing Officer arises from the June 18, 2026 denial by the Respondent of the Appellant's Long-Term Care Medicaid application for May 2026, due to excessive assets.

At the hearing, the Respondent appeared by Chaelyn Casteel, Assistant Attorney General. Appearing as witness for the Respondent was Sean Hamilton, Economic Service Supervisor, West Virginia Department of Human Services (DoHS). The Appellant was represented by [REDACTED]. [REDACTED] also provided testimony, without objection from the Respondent. All witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Application for Long Term Care Medicaid for [REDACTED] stamped as received on May 4, 2026\*
- D-2 Truist Account Transaction History dated May 28, 2026
- D-3 Check to [REDACTED] Life dated April 27, 2026
- D-4 [REDACTED] "Reduction of Free Look Period" agreement signed on April 27, 2026
- D-5 Senior Safeguard Disclosure Form dated April 27, 2026
- D-6 [REDACTED] Application for Individual Life Insurance dated April 27, 2026
- D-7 Certificate of Group Life Insurance for "Insured Name: [REDACTED]" issued by the [REDACTED]

- D-8-A Notice from the Department of Human Services (DoHS) to [REDACTED] dated June 18, 2026, denying the Appellant's eligibility for Long Term Care Medicaid on begin date May 1, 2026
- D-8-B Notice from DoHS to [REDACTED] dated June 24, 2026, approving the Appellant's eligibility for Long Term Care Medicaid on begin date June 1, 2026
- D-8-C Notice from DoHS to [REDACTED] dated June 24, 2026
- D-9-A Email from [REDACTED] to Sean Hamilton on July 9, 2026
- D-9-B Notice from DoHS to [REDACTED] s dated July 14, 2026, stating that the patient responsibility amount payable to [REDACTED] Center would decrease effective August 1, 2026
- D-9-C Notice of Contribution to the Cost of Care from DoHS to [REDACTED] dated June 23, 2026
- D-9-D Email from Sean Hamilton to [REDACTED] dated July 15, 2026

\*The last page of Exhibit D-1 was not admitted because it was from an unrelated case and was included by mistake.

### **Appellant's Exhibits:**

- A-1 Application for Long Term Care Medicaid for [REDACTED] signed by [REDACTED] as "Representative Completing Application Form" on April 30, 2026, and accompanying documentation
- A-2 Notice from DoHS to [REDACTED] dated May 27, 2026, requesting verifications by due date June 6, 2026
- A-3 Email from [REDACTED] to Sean Hamilton dated May 28, 2026, with attachments
- A-4 Notice from the Department of Human Services (DoHS) to [REDACTED] dated June 18, 2026, denying the Appellant's eligibility for Long Term Care Medicaid on begin date May 1, 2026
- A-5 Email from Sean Hamilton to [REDACTED] dated June 23, 2026
- A-6 Email from [REDACTED] to Office of Inspector General Board of Review requesting a fair hearing
- A-7 Certificate of Group Life Insurance for "Insured Name: [REDACTED]" issued by the [REDACTED]
- A-8 West Virginia Income Maintenance Manual (IMM) Section 23.11.5.B
- A-9 IMM Section 5.1
- A-10 IMM Section 5.3.1.B
- A-11 IMM Sections 5.3.4 & 5.3.5
- A-12 IMM Section 5.5.27\*
- A-13 Correspondence from [REDACTED], National Sales Director of [REDACTED] dated July 13, 2026

\*The version of IMM Section 5.5.27 submitted was amended effective July 1, 2026. Judicial notice was taken of the section in effect on May 1, 2026.

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 admitted to a nursing facility on April 9, 2026. (Exhibit A-1)
- 2) The Appellant signed an intent to purchase a single premium life insurance policy on April 27, 2026, in the amount of \$58,300, and wrote a check to pay the premium dated April 27, 2026. (Exhibit A-3)
- 3) The single premium life insurance policy has no cash surrender value and no surrender privileges. (Exhibit A-7)
- 4) The application for the life insurance policy included an agreement of “Reduction of Free Look Period” dated April 27, 2026, which would reduce the number of days during which the owner of the policy had the right to cancel the certificate and receive a return of premium from 30 days to 10 days. The life insurance policy had a date of issue of May 4, 2026. (Exhibit A-3)
- 5) On April 30, 2026, the Appellant applied for Medicaid, specifically Long Term Care (LTC), or Nursing Facility Medicaid, with a need date of May 1, 2026. The application was received by the Respondent on May 4, 2026. (Exhibit D-1)
- 6) The asset limit for the Appellant’s Medicaid category is \$2,000. (Exhibit A-8)
- 7) As of May 1, 2026, the Appellant had a checking account and a life insurance policy for \$58,300, and other non-countable assets.
- 8) On June 18, 2026, the Respondent notified the Appellant that her LTC Medicaid benefits for May 2026, were denied. The notice indicated that the Respondent had attributed \$2,373.34 in liquid assets and \$0 in life insurance assets to the Appellant. (Exhibit D-8-A)
- 9) LTC Medicaid benefits for the Appellant were approved effective June 1, 2026, with an end date of June 30, 2026, and effective July 1, 2026, with no end date. (Exhibit D-8-B, Exhibit D-8-C)

### **APPLICABLE POLICY**

**The Code of Federal Regulations does not provide asset, or resource, limits at the state level, but sets general requirements as follows at 42 CFR § 435.840, in pertinent part:**

**§ 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.

**West Virginia Income Maintenance Manual, Chapter 23, describes Long Term Care Medicaid, including Nursing Facility coverage. At Section 23.11.5, this policy addresses the asset limits as follows, in pertinent part:**

#### **23.11.5.A Nursing Facility**

| <b>Income</b>          | <b>Assets</b>                        |
|------------------------|--------------------------------------|
| 300% SSI Payment Level | \$2,000 Individual<br>\$3,000 Couple |

The Department of Human Services (DOHS) provides Medicaid to institutionalized individuals who would not otherwise be eligible for Medicaid if not in an institution. To qualify, an individual must meet the medical criteria for nursing facility or ICF admission, as well as financial criteria. SSI-Related Medicaid disability guidelines also must be met.

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.

The determination of countable assets is the same as for SSI-Related Medicaid, see Chapter 5. The SSI-Related Medicaid asset limit for one person is used.

**West Virginia Income Maintenance Manual Chapter 28 describes specific requirements for Long Term Care. Section 24.8 describes Assets, in pertinent part:**

Applicants for nursing facility services must meet the asset test for their eligibility coverage groups, except for Modified Adjusted Gross Income (MAGI) groups. The asset level for those eligible in the Nursing Facility coverage group and Supplemental Security Income (SSI)-Related/Monthly Spenddown is the same as SSI-Related Medicaid.

**West Virginia Income Maintenance Manual Chapter 5 describes Assets. Section 5.1 includes Definitions, in pertinent part:**

**ASSETS**

Total real and personal property the client has available to meet financial needs, including the value of assets assigned from certain individuals. Assets may be liquid or non-liquid.

**CASH SURRENDER OR CASH-IN VALUE**

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

See LIFE INSURANCE, FACE VALUE, TERM INSURANCE, and WHOLE LIFE INSURANCE.

**CONVERSION OR SALE OF AN ASSET**

The sale or exchange of an asset from liquid to non-liquid or non-liquid to liquid.

**FACE VALUE**

The specified amount payable on death of the insured, usually listed on the front of the policy, is the amount guaranteed and premium terms agreed upon via contract at the time of purchase.

When the premium payment specified in the contract has been fulfilled and premium payments continued to be made resulting in additional paid-up insurance, the policy's death benefit, (i.e., face value), has increased and the current amount counted.

See LIFE INSURANCE, CASH SURRENDER OR CASH-IN VALUE, TERM INSURANCE, and WHOLE LIFE INSURANCE.

**LIFE INSURANCE**

A contract whereby one party insures his own life, or the life of another party, for a specified amount of money.

**LIQUID ASSETS**

Those that are cash or payable in cash on demand, including financial instruments that can be converted to cash.

- Supplemental Security Income (SSI) Medicaid Groups: Liquid assets are those that are cash or that can be converted into cash within 20 working days. National, state, and local holidays are not working days.

See ASSETS and NON-LIQUID ASSETS.

**NON-LIQUID ASSETS**

Those that can be converted, or sold, for cash.

- SSI Medicaid Groups: Non-liquid assets are those that cannot be converted to cash within 20 working days.

See ASSETS and LIQUID ASSETS.

### **TERM INSURANCE**

Insurance policies that do not have a cash surrender value.

See LIFE INSURANCE, CASH SURRENDER OR CASH-IN VALUE, FACE VALUE, and WHOLE LIFE INSURANCE.

### **WHOLE LIFE INSURANCE**

Insurance policies that have a cash surrender value.

See LIFE INSURANCE, CASH SURRENDER OR CASH-IN VALUE, FACE VALUE, and TERM INSURANCE.

**West Virginia Income Maintenance Manual Section 5.3.1.B describes Establishing Date of Asset Eligibility for Supplemental Security Income (SSI) Medicaid Groups, in pertinent part:**

#### **5.3.1.B Supplemental Security Income (SSI) Medicaid Groups**

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.

The Worker may use any of the following items to determine first-of-the-month account balances:

- Printed or online bank statements and passbooks;
- The applicant's check register or any bank-issued document. This includes, but is not limited to, ATM transaction receipts and/or deposit and/or withdrawal receipts; and/or
- The account transaction history on a bank's automated telephone customer service line that provides complete transaction information, (i.e., deposits, withdrawals, cleared checks, and transfers to/from the account with transaction dates).

When the applicant states that a check has not cleared the bank, the Worker may use any of the means listed above to verify that the funds are legally obligated.

**SSI Medicaid Asset Eligibility Determination Example 2:** Mr. Oak's bank statement shows a checking account balance of \$1,350 as of May 1, which combined with other countable assets is \$2,250 as of the first of the month. Mr. Oak states the statement balance includes his April rent check of \$500 to his landlord, but his landlord has not cashed the check. The Worker finds an entry

for check number 1345 for \$500 written on April 25. He finds that check 1346 is cleared on the bank statement. The Worker also sees that Mr. Oak has written a \$500 check for rent on the 25th of each month for the last six months. Because Mr. Oak wrote the check and legally obligated the funds in his account, and his records provide a complete and consistent picture of the account, the Worker deducts the amount of the uncashed check from the May 1 first-of-the-month balance as an encumbrance. The new checking account balance as of May 1 is \$850 and Mr. Oak is asset eligible.

**West Virginia Income Maintenance Manual Section 5.3.4 describes Accessibility of Assets for SSI-Related Medicaid, in pertinent part:**

#### **5.3.4 Accessibility of Assets**

A client may not have access to some assets. To be considered an asset, the item must be owned by, or available to, the client and available for disposition. If the client cannot legally dispose of the item, it is not his asset.

**West Virginia Income Maintenance Manual Section 5.3.5 describes Conversion or Sale of an Asset for SSI-Related Medicaid, in pertinent part:**

#### **5.3.5 Conversion or Sale of an Asset**

Assets may be either liquid or non-liquid. An asset is converted from one form to another by sale or exchange. In addition, assets may be exchanged for assets of the same form.

##### **5.3.5.A General Instructions**

When assets are converted, the Worker must determine if the result of the conversion is an excluded or non-excluded asset. The result of the sale of an asset is never counted as income or as a lump-sum payment to the client. The only exception is when payment is received in installments, rather than in a lump sum. See Chapter 4. Instead, the new or converted asset must be evaluated as any other asset to determine continuing eligibility.

**West Virginia Income Maintenance Manual Section 5.5 is a List of Assets for determining asset eligibility, in pertinent part:**

#### **5.5.27 Life Insurance (Cash Surrender Value)**

##### 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.

## **DISCUSSION**

The Appellant contests the decision by the Respondent to deny her application for Long Term Care (LTC) Medicaid for the month of May 2026. The Respondent's denial was based on its determination that the Appellant's assets exceeded the limit to be eligible for LTC Medicaid. The Respondent must show by a preponderance of the evidence that the Appellant had excessive assets for the program.

The Appellant was admitted to a nursing home on April 9, 2026, and applied for LTC Medicaid on April 30, 2026, as a one-person assistance group, with a need date of May 1, 2026. To qualify for LTC Medicaid, the Appellant must have met asset eligibility requirements as of the beginning, or "first moment" of May 2026. The asset limit for the Appellant's Medicaid category is \$2,000.

Based on a notice sent June 18, 2026, the Respondent determined that the Appellant's countable assets as of the first moment of May 2026 were \$2,373.34 in liquid assets. The June 18, 2026 notice did not list any other assets, and stated that the Appellant had \$0 in life insurance assets. However, during the hearing, the Respondent's witness, Sean Hamilton (hereinafter Mr. Hamilton), testified that, based on the documentation presented, the Appellant had less than \$2,000 in liquid assets on May 1, 2026, and a \$58,300 life insurance policy which was both available and disposed of at the same time.

### **Was the Payment for the Life Insurance Policy Encumbered on May 1, 2026?**

The West Virginia Income Maintenance Manual (IMM) is the Respondent's written policy which outlines the procedures for administering Medicaid programs. The IMM stipulates that the worker may determine first-of-the-month account balances by using bank statements, passbooks, check registers, other bank-issued documents, and account transaction history. When the applicant states that a check has not cleared the bank, the worker may use any of the means listed above to verify that the funds are legally obligated.

The IMM gives an example to illustrate this. In the example, the client wrote a check for rent on April 25, but as of May 1, the funds were still in his checking account because his landlord had not cashed the check yet. The IMM explains that, because the client legally obligated the funds in his account, and his records provide a complete and consistent picture of the account, the Worker deducts the amount of the uncashed check from the May 1 first-of-the-month balance as an encumbrance.

The Appellant completed an application to purchase a single premium life insurance policy for \$58,300 on April 27, 2026. The Appellant, through her daughter as attorney-in-fact, wrote a check paying the premium for the policy on that date. A bank statement submitted with the LTC Medicaid application shows that the check did not clear the bank until May 4, 2026. Mr. Hamilton testified that the bank statement was used to determine the Appellant's account balance. Mr. Hamilton explained that he considered the April 27, 2026 check as having obligated the funds for the life insurance policy on April 27, 2026. Testimony from the Respondent's witness established that the April 27 check date was defined as an encumbrance, because the Respondent deducted the amount of the check from the account balance as in the example above.

### **Was the Life Insurance Policy an Available Asset?**

The single premium life insurance policy has a date of issue of May 4, 2026. Mr. Hamilton testified that the Respondent determined that the Appellant owned the single premium life insurance policy as of April 27, 2026, because the funds to pay for it were obligated on that date as discussed above. The Appellant's representative also contends that the policy was owned by the Appellant on April 27, 2026.

The Respondent argues that the life insurance policy could be canceled for ten days. Mr. Hamilton testified that, because the Appellant could cancel the life insurance policy in May 2026 and receive a refund, she had access to the amount paid for the policy, and he therefore considered it an available asset.

Pursuant to the IMM, to be counted as an asset, the asset must be owned by or available to the recipient for disposition. Additionally, an asset may be converted from one form to another by sale or exchange. When assets are converted, a determination is made if the result of the conversion is an excluded or non-excluded asset. The new or converted asset must be evaluated as any other asset to determine eligibility.

Section 5.5.27 of the IMM in effect in May 2026, stated that a life insurance policy was an excluded asset for LTC Medicaid if the policy had no cash surrender value. The life insurance policy purchased by the Appellant states that it has "no Cash Value and no Surrender Privileges." Therefore, the Appellant's single premium life insurance policy is an excluded asset for LTC Medicaid because it has no cash surrender value.

The Respondent argues that the insurance policy included a "Right to Cancel" clause, and a document titled "Reduction of Free Look Period" which states that the Appellant elected to reduce the number of days during which she had the right to "cancel the certificate and receive a return of premium from 30 days to 10 days." Mr. Hamilton testified that the Appellant could have canceled the certificate and received a return of the premium until May 14, 2026. The Respondent argues that the possibility to receive a refund of the premium made the amount of the premium "available to the recipient for disposition" pursuant to IMM Section 5.3.4.

The IMM states that, if the Appellant converted the life insurance policy by returning the policy for a full refund of the premium paid, the conversion of the life insurance policy to a liquid asset would be evaluated as a countable asset or an excluded asset. If the Appellant had returned the life insurance policy for a refund, the \$58,300 premium that was paid would have been counted as an asset. However, the Appellant did not return the life insurance policy within the ten-day time frame indicated. The Respondent issued its notice of denial on June 18, 2026, after the ten-day time frame had lapsed. The Appellant presented documentation which showed that the insurance policy had not been canceled, and was still effective as of July 13, 2026.

Furthermore, policy did not distinguish life insurance policies separately from any other non-liquid asset regarding the potential for the conversion or sale of the asset. To count the life insurance policy as an asset based on the Appellant's potential to convert the policy to a liquid asset, when this stipulation was not placed on any other type of non-liquid asset, was not supported by policy.

Whereas the Appellant's single premium life insurance policy was an excluded asset for LTC Medicaid and could only be considered an asset if sold or converted, the Respondent's decision to deny LTC Medicaid benefits for May 2026 cannot be affirmed.

### **CONCLUSIONS OF LAW**

- 1) Policy states that a worker may determine first-of-the-month account balances by using bank statements, passbooks, check registers, other bank-issued documents, and account transaction history, and the Respondent used a bank statement and a check to determine that the Appellant obligated funds to purchase a single premium life insurance policy on April 27, 2026, for \$58,300.
- 2) Because the Appellant was a one-person assistance group (AG) applicant for Long Term Care Medicaid for nursing facility services, her countable assets must have been under \$2,000 on May 1, 2026.
- 3) The single premium life insurance policy had a ten-day "Right to Cancel" clause that expired after ten days, and the "Right to Cancel" clause in the insurance policy is not the same as cash surrender value, so the policy was an excluded asset.
- 4) The Appellant did not sell or convert her life insurance policy.
- 5) The Respondent incorrectly attributed the value of the single premium life insurance policy as a countable asset.
- 6) The Appellant's countable assets for May 2026, based on bank statements and excluding the funds obligated to purchase the life insurance policy, were less than \$2,000, below the asset limit for LTC Medicaid.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to deny the Medicaid Long Term Care Nursing Facility benefits for the Appellant for the month of May 2026.

**ENTERED this 29th day of July 2026.**

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**Amy Hayes  
State Hearing Officer  
Member, Board of Review**