WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 26-BOR-2460**

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 September 1, and September 16, 2026.

The matter before the Hearing Officer arises from the Respondent's July 22, 2025 decision to deny the Appellant's eligibility for Medicare Premium Assistance.

At the hearing, the Respondent appeared by Jamie Davis, DoHS. Appearing as a witness for the Respondent was Terri Sirbaugh, DoHS. The Appellant appeared and was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:
D-1 West Virginia Income Maintenance Manual (WVIMM) excerpt: § 3.15
D-2 WVIMM excerpt: §§ 25.1., 25.2, 25.3
D-3 WVIMM excerpt: § 4.12
D-4 WVIMM excerpt: § 4.14
D-5 DoHS Notice dated July 29, 2026
D-6 Income Summary Screen
D-7 Medicaid Application excerpt
D-8 Appellant's Checking Account Statement

Appellant's Exhibits:
A-1

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) On July 29, 2026, the Respondent issued a notice advising the Appellant that he and his spouse, [redacted], were ineligible for Medicare Premium Assistance (MPA) because the household's income exceeded the eligibility limit. (Exhibit D-5)

2) When making the MPA eligibility decision, the Respondent considered $2,713.67 gross earned income. After applying a $20 income disregard, the Respondent compared the Assistance Group's (AG's) countable net income of $2,693.67 to the $2,435.00 income limit. (Exhibit D-5).

3) The Appellant receives $1,692.90 gross monthly Social Security Administration (SSA) retirement income, and $264.07 gross monthly employment retirement income (Exhibits D-6 and D-7)

4) The Appellant's spouse receives $608 gross monthly SSA retirement spouse income, and $147.80 spouse employment retirement income. (Exhibits D-6 and D-7)

5) The Appellant and his spouse are recipients of Medicare benefits. Premium payments for these benefits are deducted from the Appellant's gross SSA retirement income. (Exhibit D-8)

APPLICABLE POLICY

Code of Federal Regulations 42 CFR § 435.123(b)(2) ***Individuals eligible as qualified Medicare beneficiaries (QMB)*** provides that eligibility is established for individuals who have income that does not exceed 100 percent of the Federal poverty level.

Code of Federal Regulations 42 CFR § 435.124(b) ***Individuals eligible as specified low-income Medicare beneficiaries (SLIMB)*** provides that eligibility is established for individuals who meet the eligibility requirements in § 435.123(b), except that income exceeds 100 percent, but is less than 120 percent of the poverty level.

Code of Federal Regulations 42 CFR § 435.125(b) ***Individuals eligible as qualifying individuals (QI-1)*** provides that eligibility may be established for individuals who meet the requirements in § 435.123(b), except that income is at least 120 percent, but is less than 135 percent of the Federal poverty level.

Code of Federal Regulations 42 CFR § 435.601(e) ***Procedures for determining eligibility for the Medicare Savings Program groups*** provides that when a State determines eligibility for a

Medicare Savings Program group, for income eligibility, the agency must include at least the individuals described in § 423.772 of this chapter in determining family of the size involved.

Code of Federal Regulations 42 CFR § 423.772 *Definitions* provides that *family size* means the applicant, the spouse who is living in the same household, if any and the number of individuals who are related to the applicant or applicants, who are living in the same household and who are dependent on the applicant or the applicant's spouse for at least one-half of their financial support.

2026 Federal Poverty Guidelines provide that for a two-person household, the FPL is $21, 640 annually, or $1,803.33 monthly.

WVIMM § 3.15.2. *The Income Group (IG)* provides that for eligible spouses; the income of both individuals must be counted.

WVIMM Chapter 4, Appendix A and § 4.12.1 *Medicaid for QMB, SLIMB, QI-1 — Determining Eligibility* provide that countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. To determine countable income:

Step 1: Determine the total countable gross unearned income …
Step 2: Determine the total countable gross earned income …
Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income
Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels …
If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client is eligible.

Eligibility for these coverage groups is determined as follows:

- QMB – Income is less than or equal to 100% FPL
- SLIMB – Income is greater than 100% FPL, but less than or equal to 120% FPL
- QI-1 – Income is greater than 120% FPL, but less than or equal to 135% FPL. See Appendix A.

WVIMM Appendix A *Income Limits* provides the following monthly income limits for a two-person household:

- QMB: $1,804
- SLIMB: $1,805-2,164
- QI-1: $2,165-2,435

DISCUSSION

The Appellant applied for Medicare Premium Assistance and was denied because his income exceeded the eligibility limits for each coverage group. At the onset of the hearing, the Appellant contended that he should be determined eligible due to financial need related to his medical expenses.

Medicare Premium Assistance is a Medicare Savings Program program administered by the State Agency through Medicaid. The income eligibility limits employed by the State Agency's policy correspond with the income limits established in the federal requirements for each Medicare Savings Program. According to the regulations, income from the Appellant's spouse must be considered when determining MPA eligibility. Income limits established for each Medicare Savings Program directly refer to the 2026 Federal Poverty Level (FPL) set by the United States Department of Health and Human Services.

During the hearing, the Appellant disputed the federal guidelines and state policies used to determine the eligibility limits for MPA. Authority has not been granted to the Board of Review to change the income limits. The Hearing Officer cannot judge the policy and can only determine if the Respondent followed the policy when deciding the Appellant's eligibility for Medicare Premium Assistance. Therefore, the Medicaid income eligibility limit in effect at the time of the Respondent's decision must be applied. Pursuant to the regulations and policy, income received by the Appellant's spouse must be considered when determining the AG's MPA eligibility.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of evidence that the Appellant was correctly denied MPA eligibility because his income exceeded the eligibility limits for each of the coverage groups. The MPA group with the highest income limit is QI-1. To be eligible for QI-1, the Assistance Group's (AG's) gross monthly income could not exceed $2,435.

Pursuant to the submitted evidence, the Appellant listed his gross income amounts on his application, and the Respondent verified the amounts using the Appellant's bank statements and data received from the Social Security Administration. During the hearing, the Appellant affirmed the amounts of income used to determine his MPA eligibility. After applying a $20 income deduction, the Respondent compared the Appellant's countable net income of $2,693.67 to the eligibility limit. As there are no other available deductions to apply to the AG's income and the income exceeded the eligibility limit, the Respondent correctly denied the Appellant's eligibility for MPA.

During the hearing, information was provided to the Appellant regarding his ability to apply for Supplemental Nutrition Assistance Program (SNAP) and Medicaid Spenddown benefits. The Respondent and the Appellant agreed to coordinate after the hearing to complete applications for these programs. The Appellant was informed of his ability to appeal the Respondent's decisions regarding his eligibility for these programs once the eligibility decisions were made.

CONCLUSIONS OF LAW

1) To be eligible for Medicare Premium Assistance, the household's monthly income could not exceed $2,435.

2) The preponderance of evidence demonstrated that the AG's $2,693.67 countable net income exceeded the income eligibility limit.

3) Because the Appellant's income exceeded the eligibility limit, the Respondent correctly denied the Appellant's eligibility for Medicare Premium Assistance.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's eligibility for Medicare Premium Assistance.

ENTERED this 23rd day of September 2026.

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Tara B. Thompson, MLS
Certified State Hearing Officer