



STATE OF WEST VIRGINIA
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

Sherri A. Young, DO, MBA, FAAFP
Cabinet Secretary

Ann Vincent-Urling
Interim Inspector General

March 5, 2024

[REDACTED]

RE: [REDACTED] v. WV DEPARTMENT OF HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE
ACTION NO.: 24-BOR-1398

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Katherine Hartwell, [REDACTED] DoHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-1398

**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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 5, 2024, on an appeal filed on February 8, 2024.

The matter before the Hearing Officer arises from the January 29, 2024, decision by the Respondent to terminate Qualified Individual benefits.

At the hearing, the Respondent appeared by Katherine Hartwell. The Appellant represented herself. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

None

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 Qualified Individual benefits for herself and her husband, [REDACTED].
- 2) In January 2024, the Appellant and [REDACTED] received a cost-of-living increase in their Social Security benefits.
- 3) The Respondent updated the income for the Appellant and [REDACTED] in its eligibility system to reflect the increase in Social Security benefits: \$1,052 monthly for the Appellant and \$1,370 monthly for [REDACTED].
- 4) The Respondent issued a notice on January 30, 2024, advising the Appellant that Qualified Individual benefits would be terminated effective February 29, 2024, due to excessive income.

APPLICABLE POLICY

Code of Federal Regulations Title 42 §435.125 explains individuals eligible as qualifying individuals:

(a) **Basis.** This section implements sections 1902(a)(10)(E)(iv) and 1905(p)(3)(A)(ii) of the Act.

(b) **Eligibility.** The agency must provide medical assistance to individuals who meet the eligibility requirements in [§435.123\(b\)](#), except that income is at least 120 percent, but is less than 135 percent of the Federal poverty level.

(c) **Scope.** Medical assistance included in [paragraph \(b\)](#) of this section includes the following:

(1) For individuals entitled to Medicare Part A as described in [paragraph \(b\)\(1\)](#) of this section, coverage for the Part B premium.

(2) For individuals enrolled under Medicare Part B for coverage of immunosuppressive drugs as described in [paragraph \(b\)\(1\)](#) of this section, only payment of the Part B premium related to enrollment in Medicare Part B for coverage of immunosuppressive drugs.

West Virginia Income Maintenance Manual §4.12 explains income eligibility for Medicare Premium Assistance groups, including Qualified Individuals-1:

4.12.1 Determining Eligibility

Countable income is determined as follows:

Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions. See Section 4.14.2.

Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions. See Section 4.14.2.

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 for the appropriate number of persons. See Section 4.14 for SSI-Related deeming procedures. If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client(s) is eligible.

Eligibility for these coverage groups is determined as follows:

- Qualified Medicare Beneficiary (QMB) – Income is less than or equal to 100% Federal Poverty Level (FPL).
- Specified Low Income Medicare Beneficiary (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.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists income limits:

100% FPL for a two-person assistance group: \$1,704

120% FPL for a two-person assistance group: \$2,045

135% FPL for a two-person assistance group: \$2,300

DISCUSSION

Policy and federal regulations stipulate that the income limit for Qualified Individual benefits is 135% of the federal poverty level, or \$2,300 for a two-person assistance group. The Respondent terminated Qualified Individual benefits for the Appellant and [REDACTED] due to excessive income.

Effective January 2024, the Appellant's Social Security benefits increased to \$1,052 monthly and \$1,370 monthly for [REDACTED]. The total gross income for the Appellant and her husband is \$2,422. The income exceeds the allowable limit of \$2,300 to receive Qualified Individual benefits.

The Appellant did not dispute the income amounts used by the Respondent to determine Qualified Individual eligibility. The Appellant contended that paying their Medicare premium amounts would cause a financial hardship. The Appellant requested an exception to the income limits.

The Board of Review does not have the authority to change policy or award eligibility beyond the circumstances provided in policy. The Board of Review is unable to grant the Appellant relief by awarding income exclusions or QI-1 eligibility exceptions beyond those found in policy.

Whereas the total combined income of the Appellant and her husband exceeds the allowable limits as provided in policy and federal regulations, the Respondent's decision to terminate Qualified Individual benefits is affirmed.

CONCLUSIONS OF LAW

- 1) The income limit for a two-person assistance group for Qualified Individual benefits must be less than or equal to 135% of the federal poverty level, or \$2,300 monthly.
- 2) The combined income of the Appellant and her husband is \$2,422
- 3) The income is excessive to continue receiving Qualified Individual benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate Qualified Individual benefits for the Appellant and [REDACTED]

ENTERED this 5th day of March 2024.

Kristi Logan
Certified State Hearing Officer