



April 16, 2024



RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-1335

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 assure 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: Sean Hamilton, Department Representative
[REDACTED]

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

██████████,

Appellant,

v.

Action Number: 24-BOR-1335

**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 14, 2024, upon a timely appeal filed on February 5, 2024.

The matter before the Hearing Officer arises from the January 4, 2024 decision by the Respondent to deny financial eligibility for Long Term Care Medicaid.

At the hearing, the Respondent appeared by Sean Hamilton. The Appellant appeared by her representative, ██████████, an employee of the ██████████ nursing facility. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits*:

- D-1 Medicaid application, signed October 2, 2023
- D-2 Documents provided by the Appellant in October 2023
- D-3 Excerpted case comment dated January 3, 2024, regarding the Appellant's case, from the Respondent's data system
- D-4 Verification checklist dated November 30, 2023

- D-5 Documents provided in response to the November 2023 verification checklist
- D-6 Notice of decision, dated January 4, 2024
Excerpted case comment dated November 30, 2023, regarding the Appellant's case, from the Respondent's data system
- D-7 Additional documents provided by the Appellant, including duplicates of the November 2023 verification checklist
- D-8 West Virginia Income Maintenance Manual, Chapter 7 excerpt

*Exhibits from the Respondent were renumbered by the Hearing Officer.

Appellant's Exhibits:

- A-1 Case summary
Email dated October 16, 2023, with attached documents
Email dated December 11, 2023, with attached documents
Email dated December 27, 2023
Email dated January 2, 2024
Email dated January 24, 2024 (post-decision), with attached documents
Email dated February 2, 2024 (post-decision), with hearing request form

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 submitted a Medicaid application (Exhibit D-1) on October 16, 2023.
- 2) The Respondent requested additional information in connection with the Appellant's application on November 30, 2023. (Exhibit D-4)
- 3) The first of three items requested on the November 2023 verification checklist (Exhibit D-4), was “*Liquid asset verification (Copy of bank statement for a [REDACTED] checking account for 06/01/2023 until 09/01/2023, and if this is no longer an active account, the closure statement.)”
- 4) The Respondent worker noted in an excerpted November 30, 2023 case recording (Exhibit D-6), “The client states one checking account...” and did not document a basis for questioning this information in the case recording.

- 5) The second of three items requested on the November 2023 verification checklist (Exhibit D-4), was “*Liquid asset verification (Identification of the financial institution of the previously provided bank account ending in [REDACTED])”
- 6) The Appellant’s representative reported to the Respondent that there was no second financial institution, reiterating what was noted in the November 30, 2023 (Exhibit D-6) case recording affirming one checking account.
- 7) The Respondent did not document in a case recording the reason it found this information questionable, in order to justify requiring the Appellant to prove a negative statement.
- 8) The third of three items requested on the November 2023 verification checklist (Exhibit D-4), was “*In the correspondence of the case was a stated belief that \$5403.01 was spent and removed from the account by unnumbered checks on 06/07/2023, 06/22/2023, 06/23/2023, and 06/30/2023. To prove this we will need the documentation of how and when this money was spent. Please provide a check, expense report, receipt, etc., that will allow for the details of this transaction.”
- 9) The Appellant provided documentation exceeding the amount required by the Respondent, documenting the payment of \$9,170 in the form of two checks to [REDACTED] (Exhibit D-5) for invoices dated May 16, 2023, and June 23, 2023 (Exhibit D-5).
- 10) The November 2023 verification checklist (Exhibit D-4) provided a deadline of December 10, 2023, for the Appellant to provide the requested information, noting that failure to provide the requested information would result in denial of the Appellant's Medicaid application.
- 11) The Respondent mailed a notice (Exhibit D-6) dated January 4, 2024, denying the Appellant’s Medicaid application for two reasons.
- 12) The first reason provided for denial (Exhibit D-6) was, “The amount of assets is more than is allowed for this benefit.”
- 13) The second reason provided for denial (Exhibit D-6) was, “You did not turn in all requested information.”
- 14) The Respondent did not offer evidence or testimony to support a claim of excessive assets.
- 15) The Respondent did not “...take eligibility system action to approve, deny, or withdraw the application within 30 days of the date of application,” with regard to the Appellant’s Medicaid application dated October 16, 2023.
- 16) The Respondent failed to request information upon initial receipt of the Appellant’s Medicaid application dated October 16, 2023, ultimately issuing the request 45 days afterwards. (Exhibits D-1 and D-4)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM), Chapter 7, §7.2.1, provides:

Verification of a client's statement is required when:

- Policy requires routine verification of specific information.
- The information provided is questionable. To be questionable, it must be:
 - Inconsistent with other information provided; or
 - Inconsistent with the information in the case file; or
 - Inconsistent with information received by the Department of Human Services (DOHS) from other sources; or
 - Incomplete; or
 - Obviously inaccurate; or
 - Outdated.
- Past experience with the client reveals a pattern of providing incorrect information or withholding information. A case recording must substantiate the reason the Worker questions the client's statement.
- The client does not know the required information.

WVIMM, Chapter 7, §7.2.2, provides (emphasis added), in part:

Verification is **not required** from the individual when:

- It is known that the individual does not have access to the requested information.
- The information is known, or available to the Department of Human Services (DOHS).
- **The client's response is a negative statement, unless his statement is questionable. An example of a negative statement is when a client reports that he has no bank account. His negative statement is not verified unless there is a valid reason to question it.**
- A change reported during the Supplemental Nutrition Assistance Program (SNAP) certification period results in a decrease in benefits, unless the reported change is a new source of income

...

WVIMM, Chapter 24, §24.4.1.C.6, provides (emphasis added):

The Worker must give the applicant at least 10 days for any requested information to be returned.

The Worker must take eligibility system action to approve, deny, or withdraw the application within 30 days of the date of application.

WVIMM, Chapter 24, §24.4.1.C.7, provides (emphasis added), in part:

If the DOHS failed to request necessary verification, the Worker must immediately send a verification checklist or form DFA-6 and DFA-6a, if applicable, to the client and note that the application is being held pending. When the information is received, benefits are retroactive to the date eligibility would have been established had the DOHS acted in a timely manner.

...

WVIMM, Chapter 1, §1.2.3.A, provides (emphasis added), in part:

The Worker has the following general responsibilities in the application process. Program-specific responsibilities are found in the program sections of this chapter. The Worker must:

...

- Assist the client in obtaining information required to establish his eligibility.
 - **Determine whether or not the client is able to cooperate.**

...

- **Ensure that proper case recordings are made to document the Worker's actions and the reason for such actions.**

...

- **Notify the client of the eligibility decision as soon as possible, but at least within the processing time frames for each program or Medicaid coverage group.**

...

DISCUSSION

The Appellant appealed the decision of the Respondent to deny the Appellant's October 16, 2023 application for Medicaid for failure to verify information and excessive assets. The Respondent must show by a preponderance of the evidence that it correctly denied the Appellant's application on these bases.

The Appellant appeared at the hearing by a representative from her nursing facility, [REDACTED] submitted the Medicaid application on the Appellant's behalf. The Appellant applied for Long Term Care Medicaid on October 16, 2023. Some documentation was provided with the initial application (Exhibit D-2), but the Respondent determined additional information was necessary to process the Appellant's application. The Respondent took 45 days to make this determination and issued a verification checklist to the Appellant on November 30, 2023. The Respondent did not meet policy requirements regarding application processing (§24.4.1.C.6) or the immediate delivery of a verification checklist (§24.4.1.C.7).

The Respondent's verification checklist (Exhibit D-4) to the Appellant is not supported by policy. The Respondent did not establish through evidence or testimony that it was not requesting proof of a negative statement. The Respondent did not provide the basis, or the "case recording" showing the "stated belief" for its request – which could only be met if the Respondent's presumption were true. The Respondent's January 3, 2024 excerpted case recording had not been entered yet, and the November 30, 2023 excerpted entry did not show why the Appellant, or the information provided was questionable. Policy requires the worker to make all necessary case recordings, particularly the reasons for worker actions (§1.2.3.A) and when the worker believes there is a reason to question (§7.2.1) the statements of an applicant. By excerpting the case recordings, the Respondent abandoned whatever support for their rationale it may have provided. The Respondent did not show that it met these policy requirements at hearing.

The Respondent's apparent intention to require the Appellant to prove a negative statement is further supported by the Respondent's refusal to accept the information provided (Exhibit D-5) by the Appellant in response to the verification checklist. The Appellant's representative explained to the Respondent worker that there was no second bank account, but the Respondent did not accept this, in spite of policy (§7.2.2) requiring no proof of a negative that uses a second bank account as its explicit example. Again, policy allows for this when information is questionable, but **requires** documentation to **show** it is questionable. The Respondent either did not have case recordings to show this or refused to show them. By excerpting their case recordings shown at hearing, the Respondent did not show it could treat this information as unverified by the Appellant.

The Appellant's representative, therefore, provided the requested information regarding an alleged second bank account. The Respondent's request to explain \$5,403.01 in checks was also provided by the Appellant. The Appellant provided \$9,170 in outgoing cashier checks to [REDACTED] for two consecutive months. The Appellant also provided the corresponding invoices for those months. Two of the three items requested by the Respondent on its unsupported November 30, 2023 verification checklist were provided by the Appellant.

The Appellant did not provide the [REDACTED] bank account statements for June through August 2023 to the Respondent by the deadline set on its November 30, 2023 verification checklist. This information was ultimately provided to the Respondent on January 24, 2024. However, any denial based on this item relies on the validity of the verification checklist itself, and for the reasons given above, this verification checklist violates policy and is invalid. The matter would be remanded to the Respondent to issue a new verification checklist to the Appellant before denying the October 16, 2023 Medicaid application, but because the remaining information has been provided a remand to obtain it is unnecessary. There was no testimony or evidence to establish a basis for excessive

assets in conjunction with the Appellant's Medicaid application. The decision of the Respondent to deny the Appellant's October 16, 2023 Medicaid application is reversed.

CONCLUSIONS OF LAW

- 1) Because the Respondent's November 30, 2023 verification checklist to the Appellant violates policy, it is invalid.
- 2) Because the Respondent denied the Appellant's October 16, 2023 Medicaid application for failure to provide the information on its invalid verification checklist, the Respondent's denial cannot be affirmed.
- 3) Because all information on the verification checklist has since been provided to the Respondent, the matter is reversed rather than remanded for an additional verification checklist.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to deny the Appellant's October 16, 2023 Medicaid application for failure to provide information.

ENTERED this _____ day of April 2024.

**Todd Thornton
State Hearing Officer**