



April 5, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA  
ACTION NO.: 24-BOR-1496

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,

Tara B. Thompson, MLS  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Alicia Lyons, DoHS  
Beverly Hart, DoHS

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

████████████████████

**Appellant,**

v.

**Action Number: 24-BOR-1496**

**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 26, 2024.

The matter before the Hearing Officer arises from the Respondent's December 15, 2023 decision to terminate the Appellant's eligibility for Qualified Individual 1 Medicare Premium Assistance benefits.

At the hearing, the Respondent was represented by Alicia Lyons, ██████████ DoHS. Appearing as witnesses for the Respondent were Sheila Nestor and Beverly Hart, ██████████ DoHS. The Appellant appeared and represented himself. All witnesses were placed under oath and the following exhibits were entered into the record.

**Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual (WVIMM) Chapter 4 and Chapter 23 Excerpts
- D-2 WVIMM Income Chart, effective March 1, 2024.
  - Unearned Income screenprint, effective beginning March 2024
  - WV State Online Query RSDI Information, dated November 2020 through December 2023
  - SSI-Related Medicaid Income Budget, determination date February 28, 2024
- D-3 Notice, dated February 21, 2024

**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) On December 15, 2023, the Respondent issued a notice advising the Appellant his Qualified Individual 1 (QI-1) benefits would stop after December 31, 2023, because his income exceeded the eligibility limit.
- 2) The December 15, 2023 notice reflected \$1,676 gross unearned monthly income for the Appellant.
- 3) The Respondent applied a \$20 income disregard to the Appellant's income to arrive at a \$1,656 countable net monthly income for the Appellant.
- 4) The December 15, 2023 notice reflected \$1,641 as the Medical Needy Income Limit (MNIL).
- 5) From December 2022 through November 2023, the Appellant received \$1,676 monthly Retirement, Survivors, and Disability Insurance (RSDI) from the Social Security Administration (SSA) (Exhibit D-2).
- 6) On January 30, 2023, an agency-wide policy email advised, "Effective March 1, 2023, a change is made to update the Cost-of-Living Adjustment (COLA) for 2023. The COLA increased by 8.7% effective January 2023..."
- 7) The January 30, 2023 memo provided that the QI-1 income eligibility range for a one-person AG was \$1,459-\$1,641.

### **APPLICABLE POLICY**

**Families First Coronavirus Response Act and Fiscal Year (FY) 2023 Omnibus Appropriations Bill provide in relevant sections:** During the COVID-19 PHE, provisions were stipulated permitting the Respondent to provide continuous coverage to Medicaid recipients, regardless of income, during the PHE. On December 23, 2022, Medicaid continuous enrollment was set to end on April 1, 2023.

**West Virginia Income Maintenance Manual § 23.12.3 *Qualified Individual (QI)* provides in relevant sections:** To be eligible for QI benefits, the household's income could not exceed 121-135% FPL. The individual must meet the income test detailed in Chapter 4.

**WVIMM § 3.15.1.A *Who Must Be Included?* Provides in relevant sections:** Only the individual or spouses who are eligible for QI-1 are included in the AG.

**WVIMM § 4.12.1 *Determining Eligibility* provides in relevant sections:** Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. Recipients of federal benefits such as RSDI may receive periodic cost of living adjustments (COLA). For QI-1, the RSDI COLAs are disregarded in determining income eligibility for January and any subsequent months before the effective month of the state's Federal Poverty Level (FPL) updates for the year. RSDI increases are handled in accordance with instructions in Chapter 10, Appendices A and B.

Countable income is calculated by determining the total countable gross unearned income and subtracting the appropriate disregard and deductions. See Section 4.14.2. The resulting amount is compared to the QI-1 income level for the appropriate number of persons. If the amount is less than or equal to the QI-1 income level, the client is eligible. To be eligible for QI-1, countable income must be greater than 120% FPL, but less than or equal to 135% FPL. See Appendix A.

**WVIMM Chapter 10, Appendix B.2 *Clients* provide in relevant sections:** For redeterminations completed before the eligibility system Mass Change, the Worker must use the previous amount, even if the redetermination is completed in January.

**WVIMM § 4.14.2.B *Unearned Income Disregards* provides in relevant parts:** A SSI \$20 disregard is applied to the total gross unearned income.

## DISCUSSION

The Respondent terminated the Appellant's QI-1 benefits because his income exceeded the income eligibility limit. The Appellant contested the termination of his QI-1 benefits.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of the evidence that the Appellant's Medicaid QI-1 coverage was correctly terminated because his income exceeded the income eligibility limit in December 2023.

The Board of Review cannot judge the policy and can only determine if the Respondent followed the policy when deciding the Appellant's income exceeded the QI-1 income eligibility limit. The Medicaid income eligibility limit in effect at the time of the Respondent's December 2023 decision must be applied.

The income chart provided by the Respondent was effective March 1, 2024, after the Respondent's December 15, 2023 eligibility decision. The Respondent submitted a screen print to demonstrate the amount of the Appellant's verified unearned income. The screen print effective date is March 2024, after the Respondent's December 15, 2023 decision. The amount of income reflected on the screenprint was \$1,729.70, which was different than the amount provided on the December 15, 2023 notice of adverse action. The SSI-Related Medicaid Income Budget also reflected calculations using the Appellant's income amount after the December 2023 QI-1 eligibility denial. The Hearing Officer may only consider information relevant to the Appellant's income at the time of the Respondent's December 15, 2023 decision; therefore, the evidence submitted regarding the

Appellant's income amount after December 15, 2023, was given little weight by the Hearing Officer.

During the hearing, the Appellant testified that his wife had Medicaid benefits but he does not qualify. Information was not submitted to indicate that the Appellant's wife was an eligible recipient of QMB, SLIMB, or QI-1. The policy stipulates that only an individual eligible for Medicare Premium Assistance may be included in the AG when determining eligibility. The preponderance of evidence revealed that the income limit for a one-person AG was correctly applied when determining the Appellant's QI-1 eligibility.

The notice of adverse action revealed the Respondent compared the Appellant's \$1,656 countable net income to the \$1,641 MNIL to determine the Appellant's QI-1 eligibility. The evidence demonstrated that the Appellant verified the amount of the Appellant's income. During the hearing, the Appellant affirmed the amount of income considered was correct.

To be eligible for QI-1, countable income must be greater than 120% FPL, but less than or equal to 135% FPL. The evidence revealed the Appellant received \$1,676 monthly RSDI, beginning in December 2022. The policy instructs that to arrive at the countable income, a \$20 income disregard must be applied to the Appellant's unearned income.

Monthly RSDI:	\$1,676	
	<u>- 20</u>	Income Disregard
	\$1,656	Countable Net Income

The January 30, 2023 agency-wide memo provided that the QI-1 income eligibility range for a one-person AG was \$1,459-\$1,641, which corroborates the limit reflected on the December 15, 2023 eligibility notice. The preponderance of evidence revealed the Appellant's \$1,656 countable net income exceeded the \$1,641 QI-1 income eligibility limit.

Because the Appellant's \$1,656 monthly unearned income exceeded the \$1,641 income eligibility limit, the Respondent correctly terminated the Appellant's QI-1 benefit eligibility.

### **CONCLUSIONS OF LAW**

- 1) The Respondent may terminate an individual's QI-1 Medicare Premium Assistance eligibility when the household's monthly income exceeds 135% of the Federal Poverty Level (FPL).
- 2) The preponderance of evidence demonstrated the Appellant's \$1,656 countable net income exceeded 135% of the FPL in December 2023.
- 3) The Respondent correctly terminated the Appellant's QI-1 coverage because his countable net income exceeded the \$1,641 income eligibility limit.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's Medicaid QI-1 coverage.

**ENTERED this 5<sup>th</sup> day of April 2024.**

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Tara B. Thompson, MLS  
**State Hearing Officer**