



April 9, 2024

[REDACTED]

RE: [REDACTED] v. WV DOHS  
ACTION NO.: 24-BOR-1502

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,

Lori Woodward, J.D.  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Ann Hubbard, WVDOHS/BFA

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

██

**Appellant,**

v.

**Action Number: 24-BOR-1502**

**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 January 29, 2024 decision by the Respondent  
to close the Appellant’s Medicare Premium Assistance (MPA), specifically under the Qualified  
Individual-1 (QI-1) category, benefits.

At the hearing, the Respondent appeared by Ann Hubbard, Economic Service Supervisor. The  
Appellant appeared *pro-se*. 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 MPA, specifically, under the Qualified Individual (QI-1) category, in a single-person assistance group (AG).
- 2) The Respondent conducted a review of the Appellant's eligibility for MPA on November 28, 2023.
- 3) The Appellant owns the following vehicles whose values were established through the tax department's website and NADA (National Automotive Dealers Association):
  - 1993 Ford Escort (valued at \$300)
  - 1995 Ford F150 (valued at \$300)
  - 1997 Oldsmobile Aurora (valued at \$1,600)
  - 1995 Ford Explorer (valued at \$1,675), which was excluded from asset calculations
- 4) The Appellant discovered through the Asset Verification System (AVS) that the Appellant also owns the following non-homestead property:  

- 5) The Appellant's mobile home in West Virginia was excluded from asset calculations as homestead property.
- 6) On January 29, 2024, the Respondent issued a notice advising that the Appellant's QI-1 benefits would be terminated at the end of February 2024, due to excessive assets for the program.

## APPLICABLE POLICY

### **WV Income Maintenance Manual, Chapter 5, §5.3.3, Determination of the Value of Countable Assets:**

Only the client's equity, or portion of actual ownership, is considered, unless otherwise specified in Section 5.5 or 5.6. Equity is determined only as follows:

- Determine the CMV of the asset.
- Multiply the number of installment payments remaining by the amount of the installment payment.
- Subtract the result of the calculation from the CMV. The remainder is the equity value.

When the Worker determines that the equity value of an asset, or of several assets, will increase to above the asset limit before the next redetermination, he must set an eligibility system alert to recheck asset eligibility. **When the client disagrees with the Department of Human Services-determined (DOHS) value of an asset, it is his responsibility to provide verification of the actual value.** [Emphasis added]

**WV Income Maintenance Manual, Chapter 5, §5.4, Maximum Allowable Assets, in part:**  
Medicare Premium Assistance: \$9,430 for a one-person assistance group.

**WV Income Maintenance Manual, Chapter 5, §5.5.4.A, Checking Accounts:**

Checking accounts are a countable asset for Medicare Premium Assistance. The current month's income deposited in an account is not counted as an asset for that month. Checks dated or posted before the usual check receipt date are treated as if they were received in the usual month of receipt.

**WV Income Maintenance Manual, Chapter 5, §5.5.39.A, Homestead Property:**

The client's homestead is the property on which he lives, and which is owned, or is being purchased by him. It is the dwelling and the land on which the dwelling rests, which is not separated by intervening property owned by others. Public rights-of-way that run through the surrounding property and separate it from the home do not affect this exclusion. Any additional property acquired and not separated from the original acquisition by intervening property owned by others is also excluded.

**WV Income Maintenance Manual, Chapter 5, §5.5.39.B.2, Non-Homestead Property:**

The equity in property, not otherwise excluded, is an asset. When the client's non-excluded real property is not used in a trade or business or does not meet the \$6,000 or the \$6,000/6% limitation, the equity in the property is an asset.

**WV Income Maintenance Manual, Chapter 5, §5.5.48.C AFDC-Related and SSI-Related Medicaid, in part:**

SSI Medicaid Groups: One vehicle is excluded as an asset for these coverage groups regardless of value, when it is used for transportation of the AG or a member(s) of the AG's household. For SSI-related policy, vehicles used for transportation included, but are not limited to, cars, trucks, motorcycles, boats, snowmobiles, animal-drawn vehicles, and animals. A temporarily disabled vehicle, normally used for transportation, also meets the criteria. The following do not meet the definition of a vehicle for SSI-related Medicaid groups:

- A vehicle with a junked title
- A vehicle only used for recreational purposes, such as a boat or snowmobile.

When there is more than one vehicle, the vehicle exclusion is always applied in a manner that benefits the AG. The car with the highest value may not be the vehicle used for transportation; however, it may be excluded for that reason, if it is to the AG's advantage.

- Step 1: Exclusion Based on Use One vehicle is totally excluded, regardless of its value, when it is used for transportation of the AG or a member(s) of the AG's household.
- Step 2: Determining CMV of all non-excluded vehicles. The equity value of any other vehicle(s) that is not excluded in Step 1 is an asset, unless the vehicle(s) is excluded by other policy, such as property essential to self-support.

The listed trade-in value of the vehicle is used to determine equity value, unless one of the following conditions exist:

- The client disagrees with the listed value.
- The vehicle value is not listed.

In either of these situations, the client is responsible for obtaining one estimate at his expense on form DFA-V-1, Vehicle Estimate, or providing similar documentation that contains the necessary information to establish CMV. If the DOHS has no objection to the client's estimate, it is accepted as the value used in determining equity. The listed value is not used once an estimate has been obtained.

**WV Income Maintenance Manual, Chapter 6, §6.3.6, Asset Verification System (AVS), in part:**

The Asset Verification System (AVS) must be used to verify assets for Medicaid applicants and clients who qualify based on being aged, blind or disabled.

AVS is used at initial application, redetermination and a client reported change during the certification period. AVS must not be accessed at any other time, or for any Medicaid category not listed above.

Authorization to use AVS to verify assets is a condition of eligibility for Medicaid and is part of the Rights and Responsibilities. Failure to give consent and authorize the release of information results in Medicaid denial/closure.

Bank account information received from the AVS is considered verified for the Medicaid program. However, when information received in the AVS results in ineligibility, the client must be afforded the opportunity to rebut the AVS information prior to any negative case action.

**Real property and vehicle information received from AVS is not considered verified for the Medicaid program and will require the worker to follow-up with the client to verify the availability and value of the asset if this has not already been provided by the client.**  
[Emphasis added]

**DISCUSSION**

Policy states that the asset limit for a one-person assistance group for Medicare Premium Assistance is \$9,430. The Respondent determined that the Appellant owned four vehicles, and two non-homestead properties. The Respondent excluded the Appellant's mobile home as homestead property. Additionally, the Appellant's highest valued vehicle, the 1995 Ford Explorer, was also excluded from asset determination. The total value of the non-excluded vehicles was determined to be \$2,200 by the Respondent's worker. The total value of the non-homestead property located outside of the state of West Virginia, was determined to be \$68,242. The Respondent terminated the Appellant's benefits when it determined his countable assets were over the limit for eligibility.

The Appellant did not dispute his ownership of the vehicles or of the real property used in determining his assets. The Appellant testified that he brought this appeal because he does not own any real property in West Virginia, and he believed that the Respondent's asset determination included the property on which his mobile home is located. He was unaware that the Respondent knew of the other properties he owned outside of the state of West Virginia, much less included it in the asset calculation. The Respondent's representative testified that the Appellant's other real

property was discovered through an inquiry to the Respondent's Asset Verification System (AVS).

Policy specifically states that vehicle and real property information received from AVS is not considered verified for the Medicaid program. The worker is required to follow up with the client to verify the availability and value of the asset if this has not already been provided by the client. There was no evidence to show that the worker did so. The Respondent did not show by a preponderance of evidence that it followed policy in terminating the Appellants QI-1 benefits. Thus, the Respondent's decision cannot be affirmed.

### **CONCLUSIONS OF LAW**

- 1) Policy specifically states that vehicle and real property information received through the AVS system is not considered verified upon receipt.
- 2) The information received through the AVS system must be followed up with the client to verify the availability and value of the asset.
- 3) The Respondent received information through the AVS about non-homestead real property owned by the Appellant.
- 4) The testimony and evidence presented did not show that the Respondent's worker gave the Appellant an opportunity to present information regarding the accessibility or value of his assets before it terminated his QI-1 benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant QI-1 benefits after February 29, 2024. The matter is **REMANDED** for issuance of a verification request and subsequent determination of the Appellant's eligibility for MPA.

**ENTERED this 9<sup>th</sup> day of April 2024.**

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Lori Woodward, Certified State Hearing Officer