



May 29, 2024

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 24-BOR-1994

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: Recourse to Hearing Decision  
Form IG-BR-29

cc: Leslie Riddle, [REDACTED] DoHS

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-1994**

**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 May 8, 2024.

The matter before the Hearing Officer arises from the Respondent's April 15, 2024 decision to deny the Appellant's eligibility for Children Under Age 19 Medicaid benefits.

At the hearing, the Respondent appeared by Leslie Riddle, ██████████ DoHS. The Appellant appeared and represented herself. Both witnesses were placed under oath and the following documents were submitted into the evidence.

**Department's Exhibits:**

- D-1 Notice, dated April 15, 2024
- D-2 Income Chart, revised March 1, 2024
- D-3 ██████████ Earnings Statement:  
Period beginning February 24, 2024

**Exhibits:**

- A-1 ██████████ physician letter, dated April 18, 2024

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 April 15, 2024, the Respondent issued a notice advising that Child █████ Children's Medicaid (age 6-18) benefits would end after April 30, 2024, because the Assistance Group's (AG) income exceeded the Medicaid income limit.
- 2) At the time of the April 15, 2024 decision, 133% of the Federal Poverty Level for a two-person household was \$2,266 (Exhibit D-2).
- 3) Child █████ Medicaid household consisted of Child █████ and the Appellant (Exhibit D-1).
- 4) The April 15, 2024 notice advised that Child █████ Medicaid coverage would continue under WV CHIP, effective May 1, 2024 (Exhibit D-1).
- 5) The Respondent considered \$2,513.21 in earned income (Exhibit D-1).
- 6) On February 29, 2024, the Appellant was paid \$1,188.00 gross income for 82.66 hours worked during the February 10 through February 23, 2024 work period (Exhibit D-3).
- 7) On March 15, 2024, the Appellant was paid \$1,149.87 gross income for 71.83 hours worked during the February 24 through March 8, 2024 work period (Exhibit D-3).
- 8) On April 17, 2024, the Appellant's physician, █████ MD, issued a letter establishing the Appellant's chronic autoimmune disease diagnosis and related treatment (Exhibit A-1).

### **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) § 3.6 Children Under Age 19 Medicaid** provides in relevant sections: Only the child under age 19 is included in the Assistance Group.

**WVIMM § 3.6.2 The Modified Adjusted Gross Income (MAGI) Household Income Group (IG) and Needs Group (NG)** provides that the methodology for determining the MAGI household's IG and NG is the same as found in Section 3.7. **WVIMM § 3.7.2 The MAGI Household IG** provides that the income of each member of the individual's MAGI household is counted. The IG is determined using the MAGI methodology established in Section 3.7.3. **WVIMM § 3.7.3 The MAGI Household NG** provides that the needs group is determined by applying the MAGI methodology to determine the MAGI household size. When the child applicant is claimed as a tax

dependent on a parent's taxes, the child's Medicaid household consists of the applicant, the tax filer claiming her as a dependent, and any other dependents in the tax filer's household, and the applicant's spouse if they reside together. This is known as the tax-dependent rule.

**WVIMM § 23.10.2 *Children Under Age 19*** provides that income eligibility is based on the age of the child:

For children below age 1, the income must be equal to or below 158% of the Federal Poverty Level (FPL). For children aged 1 to 5, the income must be equal to or below 141% of the FPL. For children aged 6-19, the income must be equal to or below 133% FPL.

A child is eligible for Medicaid coverage in this group when all of the following conditions are met:

- The child is not eligible for Supplemental Security Income (SSI) Medicaid;
- The child is under age 19, regardless of school attendance...
- The income eligibility requirements described in Chapter 4 are met

**WVIMM § 4.7.2.B *Make the Adjustments/Deduction*** provides that after the income has been determined, determine if any adjustments/deductions are applicable and subtract them from the income. Only permitted expenses may be deducted.

**WVIMM § 4.6.1 *Budgeting Method*** provides that monthly income is determined by considering income that can be reasonably anticipated for the AG. **WVIMM § 4.6.1.D *How to Use Past and Future Income*** provides that when income is received more often than monthly, the Worker must find the average amount per period and convert it to a monthly amount. When income is received biweekly, the Worker must multiply the average amount by 2.15 to determine the monthly amount.

**WVIMM § 4.7.3 *MAGI-Based Income Disregard*** provides that the only allowable income disregard is an amount equivalent to five percentage points of 100% of the Federal Poverty Level (FPL) for the applicable MAGI household size. The 5% MAGI disregard is only applied to the highest MAGI income limit for which an individual may be determined eligible.

**WVIMM § 4.7.4 *Determining Eligibility*** provides that income should be reviewed as follows:

Step 1: Determine the MAGI-based gross monthly income for each MAGI household income group (IG).

Step 2: Convert the MAGI household's gross monthly income to a percentage of the FPL by dividing the current monthly income by 100% of the FPL for the household size. Convert the results to a percentage. If the result from Step 2 equal to or less than the appropriate income limit, no disregard is necessary, and no further steps are required.

Step 3: If the results from Step 2 is greater than the appropriate limit, apply the 5% FPL disregard by subtracting five percentage points from the converted monthly gross income to determine the household income.

Step 4: After the 5% FPL income disregard has been applied, the remaining percent of FPL is the final figure that will be compared against the applicable modified adjusted gross income standard for the MAGI coverage groups.

### DISCUSSION

The Respondent terminated the Appellant's eligibility for Medicaid Children Under age 19 benefits. The Respondent's representative testified that a shift occurred in Child [REDACTED] coverage type but that there was no lapse in medical coverage. The Appellant argued that Child [REDACTED] requires full coverage Medicaid to ensure proper treatment of her chronic illness. During the hearing, the Appellant's representative testified that the Appellant's chronic illness requires extensive and costly treatment and requested her Medicaid Children Under Age 19 benefits be reinstated. The Appellant did not dispute Child [REDACTED] WV CHIP eligibility.

The Board of Review cannot grant Medicaid eligibility exceptions or apply income disregards beyond what the policy allows. The Respondent had to prove by a preponderance of evidence that the Appellant's income exceeded the eligibility limit at the time of the Respondent's termination of the Appellant's Medicaid Children Under Age 19 benefits.

The policy provides that when a child is claimed as a tax dependent by their parent, the Medicaid household consists of the child and the tax filer claiming the child as a dependent. Therefore, the Respondent was required to consider the amount of the Appellant's income when determining Child [REDACTED] Medicaid eligibility.

For Child [REDACTED] to be eligible for Children Under Age 19 Medicaid, the AG's income had to be equal to or below 133% of the FPL. At the time of the Respondent's decision, 133% of the FPL for a two-person AG was \$2,266.

During the hearing, the Appellant testified that sometimes her income is reduced. The submitted income verification revealed that the Appellant's income regularly fluctuates. The Respondent provided the Appellant with information to report income changes and the potential for subsequent eligibility reconsiderations.

The evidence revealed that the Appellant received gross biweekly earned income. The policy stipulates that for income that normally fluctuates, an average amount per pay period is determined as follows:

\$ 1,188.00	gross bi-weekly pay
<u>+ 1,149.87</u>	gross bi-weekly pay
\$ 2,337.87	total bi-weekly pay
<u>÷ 2</u>	pay periods
\$1,168.935	average gross bi-weekly pay

After determining an average amount of gross bi-weekly pay, the policy instructs the Respondent to determine a monthly income amount as follows:

\$1,168.935	average gross bi-weekly pay
X 2.15	
<u>\$2,513.21</u>	gross monthly income

During the hearing, the Respondent’s notice calculations were reviewed, and no additional deduction areas were identified. The policy stipulates that the only allowable income disregard is an amount equivalent to five percentage points of 100% of the FPL.

The policy instructs to convert the gross monthly income to a percentage of the FPL by dividing the current monthly income by 100% of the FPL for the household size. Pursuant to the evidence, 100% of the FPL for a two-person household was \$1,704.

$\$2,513.21 \text{ gross monthly income} \div \$1,704 = 147\% \text{ of the FPL}$

Because 147% is greater than the 133% income limit, the 5% disregard is applied:

147	percent of the FPL
- 5	5% disregard
<u>142</u>	remaining percentage of the FPL

The preponderance of evidence revealed that the Appellant’s income exceeded the eligibility limit, even after the application of the 5% disregard.

**CONCLUSIONS OF LAW**

- 1) When the AG’s income exceeds the Medicaid eligibility limit, the Respondent may terminate the Appellant’s Medicaid Children Under Age 19 benefits.
- 2) To be eligible for Medicaid Children Under Age 19 benefits, the AG’s income could not exceed 133% of the FPL.
- 3) The preponderance of evidence revealed that the Appellant’s income exceeded 133% of the FPL.
- 4) The Respondent correctly terminated the Appellant’s Medicaid Children Under Age 19 benefit eligibility after April 30, 2024.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's Medicaid Children Under Age 19 benefit eligibility after April 30, 2024.

**ENTERED this 29<sup>th</sup> day of May 2024.**

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