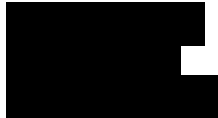




May 15, 2024



RE: [REDACTED] vs. WVDoHS
BOR Action No.: 24-BOR-2040

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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Fischer, BFA

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-2040

**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 15, 2024, on appeal filed April 12, 2024.

The matter before the Hearing Officer arises from the April 12, 2024 decision by the Respondent to terminate the Appellant's eligibility for Medicare Premium Assistance Medicaid program.

At the hearing, the Respondent appeared by Jennifer Fischer, Economic Service Supervisor. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual § 23.12.1
- D-2 West Virginia Income Maintenance Manual § 5.4
- D-3 Assets Summary
- D-4 Notice of Decision dated April 12, 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) The Appellant was a recipient of the Medicare Premium Assistance (MPA) Medicaid program.
- 2) The Appellant completed a recertification for the program.
- 3) The asset limit for MPA Medicaid program is \$9,430.00. (Exhibit D-1 and Exhibit D-2)
- 4) The Appellant reported a checking account in the amount of \$1,074.99.
- 5) The Appellant has an heirship residence valued at \$25,000, which was excluded from asset calculations as homestead property.
- 6) The Respondent discovered additional properties through an Asset Verification System (AVS) which identified two additional commercial properties valued at \$4,890.00 and \$9,270.00, non-homestead real property valued at \$300.00, and non-homestead real property located in [REDACTED] West Virginia valued at \$57,600. (Exhibit D-3)
- 7) The Respondent attributed \$73,134.99 toward the Appellant's asset eligibility for the MPA Medicaid program.
- 8) On April 12, 2024, the Respondent issued a Notice of Decision (Exhibit D-4) informing the Appellant that his application for the MPA Medicaid program had been denied because "countable assets exceed the limits." (Exhibit D-4)

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 5.4 documents:

The asset limit for a one-person assistance group for the QMB, SLMB, QI-1 program is \$9,430.

West Virginia Income Maintenance Manual § 5.5.4 documents in part:

Bank accounts and Certificates of Deposits are a countable asset toward AFDC-Related Medicaid.

West Virginia Income Maintenance Manual § 5.5.39.B.2

The equity in property, not otherwise excluded, is an asset for AFDC-Related Medicaid.

West Virginia Income Maintenance Manual § 23.12.1 documents:

The asset limit for the Qualified Medicare Beneficiaries is \$9430.00

West Virginia Income Maintenance Manual § 6.3.6 documents 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

On April 12, 2024, the Respondent terminated the Appellant's eligibility for the Medicare Premium Assistance Medicaid program, when it determined that the Appellant's countable assets exceeded the limits set forth in policy. The Appellant appeals the Respondent's decision. The Respondent must prove by a preponderance of the evidence that the Appellant's countable assets exceeded the asset limit of \$9430.00.

The Appellant's eligibility for Medicare Premium Assistance Medicaid was terminated when the Respondent discovered multiple non-homestead real property assets, through the Respondent's Asset Verification System (AVS), which exceeded the countable asset limit. Jennifer Fischer, Economic Service Supervisor testified that the Respondent utilized the following assets in determining the Appellant's eligibility for the program. A checking account valued at \$1,074.99,

two commercial non-homestead properties valued at \$4,890.00 and \$9,270.00, a non-homestead real property valued at \$300.00, and an additional non-homestead real property valued at \$57,600.00 in [REDACTED], West Virginia. Ms. Fischer indicated that the Respondent's total countable asset limit was determined to be \$73,134.99. Ms. Fischer testified that the Appellant's total countable assets exceeded \$9,430.00 which resulted in the termination of the Appellant's eligibility. Ms. Fischer indicated that the Appellant was previously determined eligible for Medicaid assistance due to a clerical error in which the Respondent failed to utilize property assets in the asset calculation.

The Appellant disputed the calculation of his assets arguing that he owns no commercial properties. The Appellant purported that he owns one heirship property, in which two vacant lots are connected. The Appellant disputed the ownership of the non-homestead real property located in [REDACTED], West Virginia indicating that the property was owned by his daughter in which he was a cosigner and that property has never been refinanced.

Governing policy mandates that vehicle and real property information received from the AVS is not considered verified for the Medicaid program. Policy requires the worker to follow-up with the customer to verify the availability and the value of the asset if such information has not already been provided by the customer. During the hearing, there was no evidence to demonstrate that the Respondent requested verification to follow-up and verify the availability and value of the real property assets with the Appellant. Because information from the AVS is not considered verified and the Respondent failed to seek verification of the asset, the Respondent did not demonstrate by a preponderance of the evidence that it followed policy in terminating the Appellant's MPA Medicaid benefits. Therefore, the Respondent's decision to deny the Appellant's MPA benefits cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy requires that vehicle and real property information received through the AVS is not considered verified upon receipt.
- 2) Information received through the AVS must be followed up with the client to verify the availability and value of the asset.
- 3) The Respondent received information through the AVS regarding the Appellant's non-homestead real property.
- 4) Testimony and evidence did not demonstrate that the Respondent afforded the Appellant an opportunity to verify information regarding the accessibility or value of assets before the termination of MPA Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to terminate the Appellant's eligibility for the Medicare Premium Assistance Medicaid program effective April 12, 2024. The matter is **REMANDED** for issuance of a verification request and subsequent determination of the Appellant's eligibility for the Medicare Premium Assistance Medicaid program.

ENTERED this _____ day of May 2024.

Eric L. Phillips
State Hearing Officer