



May 9, 2024

[REDACTED]

RE: [REDACTED] v. WVDohS  
ACTION NOS.: 24-BOR-1988 and 24-BOR-2133

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Heather Perry, WVDohS

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

██████████,

**Appellant,**

v.

**Action Numbers: 24-BOR-1988 and 24-BOR-2133**

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on May 7, 2024.

The matter before the Hearing Officer arises from the April 9, 2024, decision by the Respondent to terminate Supplemental Nutrition Assistance Program (SNAP) and Adult Medicaid benefits effective May 2024.

At the hearing, the Respondent appeared by Heather Perry, Economic Services Supervisor, WVDoHS. 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 Chapters 3.7.3 and 3.2, and Acronyms, Forms and Glossary definition of "spouse"
- D-2 Notice of Decision dated April 9, 2024
- D-3 Pay stubs for ██████████ from ██████████
- D-4 MAGI Medicaid Income Budget information, SNAP Budget information, and Income Summary from Respondent's computer system

**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 Supplemental Nutrition Assistance Program (SNAP) and Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits.
- 2) The Appellant is separated from his wife, [REDACTED] but still resides in her household.
- 3) [REDACTED] began working at [REDACTED]
- 4) The Respondent calculated [REDACTED] monthly earned income to be \$3,170.51 by averaging her pay from March 4, 2024, and March 18, 2024, and using a bi-weekly multiplier (Exhibits D-3 and D-4).
- 5) It should be noted that the Respondent used [REDACTED] net income instead of gross income as required by policy (Exhibit D-3).
- 6) The Appellant receives Social Security Disability benefits of \$896 per month (Exhibit D-4).
- 7) The Respondent determined that gross earned and unearned household income totaled \$4,066.51 per month (Exhibit D-4).
- 8) Net adjusted household income was calculated as \$3,234.41 for SNAP purposes (Exhibit D-4).
- 9) The gross income limit for a two-person SNAP Assistance Group is \$2,137 per month and the net income limit for a two-person SNAP Assistance Group is \$1,644 per month (Exhibit D-4).
- 10) The income limit for a two-person MAGI Adult Medicaid Assistance Group is \$2,266 per month (133% of the Federal Poverty Level) (Exhibit D-4).
- 11) The Respondent notified the Appellant of the SNAP and Adult Medicaid benefit termination in a Notice of Decision dated April 9, 2024 (Exhibit D-2).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 4.4.2.B lists allowable deductions for SNAP benefits. These deductions include the earned income disregard of 20 percent, the Standard

Deduction, the dependent care deduction, the child support deduction, the Homeless Shelter Standard Deduction, medical expenses for the elderly and/or disabled, shelter expenses, and the Standard Utility Allowance (SUA).

Code of Federal Regulations 7 CFR 273.1(b) states:

***Special household requirements*** —

(1) ***Required household combinations.*** The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

West Virginia Income Maintenance Manual Chapter 3.2.1 states that spouses who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage must be included in the SNAP Assistance Group.

West Virginia Income Maintenance Manual Chapter 4.4.3.B addresses how to compute countable income for SNAP purposes.

Step 1: Combine monthly gross countable earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross countable unearned income, including the WV WORKS benefit and any amount reduced or being repaid to WV WORKS due to failure to comply with a program requirement. See Section 4.4.4.

Step 4: Subtract the Standard Deduction found in Appendix B.

Step 5: Subtract allowable dependent care expenses.

Step 6: Subtract the amount of legally obligated child support actually paid.

Step 7: Subtract the Homeless Shelter Standard Deduction found in Appendix B.

Step 8: Subtract allowable medical expenses in excess of \$35.

Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount.

Step 10: If the shelter and Standard Utility Allowance is greater than Step 9 and at least one person is elderly or disabled, the amount in excess of 50% is deducted, without regard to the shelter/utility cap, in Appendix B to arrive at countable income.

West Virginia Income Maintenance Manual Chapter 4.4.3.C states that to determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. To determine the benefit allotment, multiply net income by 30% (round up) then subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size. Chapter 4, Appendix A, states that the maximum monthly SNAP allotment for a two-person Assistance Group is \$535.

Code of Federal Regulations 42 CFR 435.119 provides the following information concerning Adult Medicaid coverage:

**Coverage for individuals age 19 or older and under age 65 at or below 133 percent FPL.**

- (a) **Basis.** This section implements section 1902(a)(10)(A)(i)(VIII) of the Act.
- (b) **Eligibility.** Effective January 1, 2014, the agency must provide Medicaid to individuals who:
  - (1) Are age 19 or older and under age 65;
  - (2) Are not pregnant;
  - (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act;
  - (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with [subpart B of this part](#); and
  - (5) Have household income that is at or below 133 percent FPL for the applicable family size.

West Virginia Income Maintenance Manual Chapter 23.10.4 states, in pertinent part:

As a result of the Affordable Care Act (ACA), the Adult Group was created, effective January 1, 2014. Eligibility for this group is determined using MAGI methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who are aged 19 or older and under age 65.

To be eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

West Virginia Income Maintenance Manual Chapter 3.7.3 states, in pertinent part:

The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

West Virginia Income Maintenance Manual Chapter 3.7.3. states that the needs group is the number of individuals included in the MAGI household size based upon the MAGI rules for counting household members. To determine MAGI household size, the following step-by-step methodology is used for each applicant. In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.

West Virginia Income Maintenance Manual Chapter 4.7.2 states that eligibility for the MAGI coverage group is determined by using the adjusted gross income (for each member of the MAGI household whose income will count) for the current month. The MAGI differs from the adjusted gross income because MAGI accounts for additions and adjustments. The worker uses the budgeting method established in Section 4.6.1, Budgeting Method, to anticipate future income amounts, consider past income sources, and build monthly income amounts based upon the applicant's reported income.

West Virginia Income Maintenance Manual Chapter 4.7.3 states 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% FPL disregard is not applied to every MAGI eligibility determination and should not be used to determine the MAGI coverage group for which an individual may be eligible. The 5% FPL disregard will be applied to the highest MAGI income limit for which an individual may be determined eligible.

West Virginia Income Maintenance Manual Chapter 4.6.1.D states that conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows: • Weekly amount x 4.3 • Bi-weekly amount (every two weeks) x 2.15 • Semi-monthly (twice/month) x 2.

West Virginia Income Maintenance Manual Chapter 4.7.4 states that the applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage groups.

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 result to a percentage. If the result from Step 2 is equal to or less than the appropriate income limit, no disregard is necessary, and no further steps are required.

Step 3: If the result 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.

West Virginia Income Maintenance Manual Chapter 4, Appendix A, states that the income limit for a two-person MAGI Medicaid Assistance Group is \$2,266 (133% of the Federal Poverty Level).

### **DISCUSSION**

Policy states that for both SNAP and MAGI Adult Medicaid purposes, legal spouses are required to be included in the same Assistance Group.

The Respondent's witness contended that the Appellant no longer qualifies financially for SNAP or Adult Medicaid benefits as policy requires his wife and her income to be counted in his Assistance Group since they are legally married.

The Appellant testified that he and his wife have been separated for many years and that, while he continues to reside in her household, he only lives in the living room and garage areas. He stated that his religion does not permit him to divorce.

As policy specifically requires spouses to be included in the same SNAP and Adult Medicaid Assistance Groups, the Respondent's decision to terminate SNAP and Medicaid benefits based on excessive income is correct. The Respondent considered the Appellant's wife's net income instead of gross income; however, that issue is moot since total household income would have been greater using gross income.

As the Appellant's household income exceeds the income limit for a two-person SNAP and MAGI Medicaid Assistance Group, the Respondent's decision to terminate SNAP and Medicaid benefits based on excessive income is affirmed.

### **CONCLUSIONS OF LAW**

- 1) The Appellant's SNAP and MAGI Adult Medicaid benefits were terminated effective May 2024 based on excessive household income.
- 2) The Appellant's spouse must be included in his SNAP and Adult Medicaid Assistance Groups.
- 3) Total combined monthly income exceeds both the gross and net income limits for a two-person SNAP Assistance Group.
- 4) Total combined monthly income exceeds the MAGI Medicaid Program income limit of 133% of the FPL for two people.

- 5) The Respondent's decision to terminate SNAP and MAGI Adult Medicaid benefits is affirmed.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to terminate SNAP and MAGI Adult Medicaid benefits effective May 2024.

**ENTERED this 9th day of May 2024**

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**Pamela L. Hinzman  
State Hearing Officer**