



[REDACTED]

June 25, 2024

RE: [REDACTED] v. WV DoHS
ACTION NO.: 24-BOR-2020

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: Mitchell Parlett, [REDACTED] DoHS
Stephanie Smith, [REDACTED] DoHS
Justin Thorne, [REDACTED] DoHS
Pamela Trickett, [REDACTED] DoHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-2020

**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 June 4, 2024.

The matter before the Hearing Officer arises from the Respondent's March 27, 2024 decision to terminate the Appellant's SSI-related Medicaid benefits.

At the hearing, the Respondent appeared by Mitchell Parlett, ██████████ DoHS. The Appellant appeared and represented herself. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Benefit Summary, eligibility begin date May 1, 2018
- D-2 Medicaid review form, mailing date February 12, 2024
- D-3 PATH Assets summary
- D-4 ██████████ balance receipt
- D-5 PATH Liquid Assets screenprint
- D-6 ██████████ Life Insurance Company Statement of Policy Cost and Benefit
Policy No.: ██████████
Date Policy Summary Prepared: July 31, 2013
PATH Life Insurance Assets screenprint
- D-7 ██████████ Life Insurance Company Statement of Policy Cost and Benefit
Policy No.: ██████████
Date Policy Summary Prepared: July 31, 2013
Policy Specifications No. ██████████

- Policy effective date: May 10, 2003
- D-8 PATH Assets Summary
 - D-9 West Virginia Income Maintenance Manual (WVIMM) excerpts
 - D-10 WVIMM Excerpts
 - D-11 WVIMM Excerpts
 - D-12 Notice, dated March 27, 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 received SSI-Related Medicaid benefits (Exhibit D-1).
- 2) On March 27, 2024, the Respondent issued a notice advising the Appellant her SSI-Related Medicaid benefits would end after April 30, 2024, because the amount of her assets exceeded the asset eligibility limit (Exhibit D-12).
- 3) The March 27, 2024 notice reflected \$324.38 liquid assets and \$1,680.80 insurance assets for a total of \$2,005.18 countable assets for the Appellant. The notice reflected a \$2,000 medical asset limit (Exhibit D-12).
- 4) On February 29, 2024, the Appellant submitted her Medicaid review form (Exhibit D-2).
- 5) At review, the Appellant indicated she would not file a federal tax return next year (Exhibit D-2).
- 6) At review, the Appellant indicated she received Medicare HMO Humana insurance coverage (Exhibit D-2).
- 7) At review, the Appellant indicated she was disabled (Exhibit D-2).
- 8) Review form item 8 *Assets*, reflected pre-populated assets amounts of \$75 and \$450 burial plot/spaces; \$948.00 life insurance cash surrender value; \$0.63 savings account; \$233.19 checking account; and \$25,000 real estate (Exhibit D-2).
- 9) Review form item 8 *Assets* instructed, "Cross out any information that is not correct about members of your household. Write in the new information" (Exhibit D-2). The Appellant did not cross out or write in any information in this section (Exhibit D-2).

- 10) On February 26, 2024, the Appellant applied her handwritten signature certifying all statements supplied on the form had been read to her and that she understood them. She certified that all information she provided was true and correct (Exhibit D-2).
- 11) At the time of the Appellant's February 26, 2024 review, she was 75 years old (Exhibit D-2).
- 12) On February 24, 2023, the Appellant submitted a whole life insurance policy no. [REDACTED] statement that was prepared on July 31, 2013 (Exhibit D-7).
- 13) The Appellant's age at issue was 65 (Exhibit D-7).
- 14) The guaranteed cash value at 10 years was \$2,010. There was no cash value reflected at age 65 (Exhibit D-7).
- 15) On February 24, 2023, the Appellant submitted policy specifications for policy number [REDACTED] (Exhibit D-7). The policy was effective May 10, 2003, when the Appellant was age 54 (Exhibit D-7).
- 16) At policy year 20, the cash value was \$1,910.85 (Exhibit D-7). At age 65, the cash value was \$948 (Exhibit D-7).
- 17) On March 20, 2023, the Respondent updated the Appellant's Life Insurance Assets to reflect \$1,919.85 for life insurance policy number [REDACTED] (Exhibit D-7).
- 18) On February 26, 2024, the Appellant submitted a bank receipt to verify her \$323.75 balance for account number 20525 (Exhibit D-4).
- 19) On February 26, 2024, the Appellant submitted life insurance policy number [REDACTED] information that was prepared on July 31, 2013 (Exhibit D-6).
- 20) On February 29, 2024, the Appellant submitted life insurance policy number [REDACTED] information that reflected in the 10th year, the policy's guaranteed cash value was \$732.80 and at age 65, the cash surrender value was \$948 (Exhibit D-6).
- 21) To be eligible for SSI Medicaid, the Appellant's assets could not exceed \$2,000 (Exhibit D-9).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 5.1 *Definitions* provides:

Assets are the total real and personal property the client has available to meet financial needs, including the value of assets assigned from certain individuals. Assets may be liquid or non-liquid.

Cash surrender or cash-in value The amount of cash received by the owner of the policy, if redeemed before the death of the insured. See *life insurance, face value, term insurance, and whole life insurance*.

WVIMM § 5.5.27 *Life Insurance (Cash Surrender Value)* provides cash surrender value is considered for SSI Medicaid groups as follows:

If the face value of all life insurance policies for one individual totals \$1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of \$1,000 the cash surrender values are counted as an asset. The life insurance policy must be owned by the client.

WVIMM § 5.4 *Maximum Allowable Assets* provides that for a one-person Assistance Group (AG) to be eligible for SSI Medicaid, the household income could not exceed \$2,000.

DISCUSSION

The Appellant completed a Medicaid eligibility review and was determined by the Respondent to be ineligible for continued SSI-Related Medicaid benefits because her assets exceeded the eligibility limit. The Respondent's representative testified that the cash surrender amounts entered on the Appellant's review form and in the case were incorrect and had changed before the Appellant's review (Exhibit D-6). The Appellant did not refute that the asset values had changed and testified that she does not pay much attention to her life insurance policies and did not know that the amounts had changed.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of the evidence that the Appellant's assets exceeded the SSI Related Medicaid asset limit. The policy provides that for a one-person AG, the Appellant's assets could not exceed \$2,000.

Under the policy, if the face values of all life insurance policies for one individual total \$1,500 or less, the cash surrender values are not counted as an asset. The preponderance of evidence revealed that the face values of the Appellant's life insurance policies exceeded 1,500. Therefore, the policy instructs that the cash surrender values must be counted as assets.

Account Number [REDACTED]

The evidence revealed that the Appellant's policy was effective in May 2003 when the Appellant was age 54. The evidence revealed that the Appellant was age 75 at the time of her February 2024 review.

The Respondent testified that the \$948 amount was used when determining the Appellant's March eligibility but was out of date before the Appellant's review. According to the evidence, the \$948 guaranteed cash value was applied when the Appellant was age 65. The evidence revealed that this was the same amount considered by the Respondent during the February 2024 eligibility review. The Respondent's representative testified that this calculation was incorrect and that the Appellant's asset value was higher at the time of review.

The evidence revealed that the Appellant's life insurance policy [REDACTED] had aged twenty years and that the guaranteed cash value of \$1,910.85 should have been considered as an asset when determining the Appellant's Medicaid eligibility.

Account Number [REDACTED]

The evidence revealed that the Appellant's whole life insurance policy statement was prepared in July 2013, more than ten years before the Appellant's February 26, 2024 Medicaid eligibility review. The statement revealed the policy was issued when the Appellant was age 65. The evidence revealed the Appellant was age 75 at the time of her February 2024 review.

The Respondent testified that \$732.80 was the cash surrender amount used for the Appellant's account number 2010014614 but that \$2,010 should have been considered as the Appellant's policy had aged ten years. Pursuant to the evidence, the policy's guaranteed cash value was \$2,010 on the tenth anniversary of the policy. The evidence revealed that the Respondent should have considered \$2,010 in assets for the Appellant's life insurance policy number [REDACTED].

CONCLUSIONS OF LAW

- 1) To be eligible for SSI Medicaid, the household income could not exceed \$2,000.
- 2) The evidence revealed that the Respondent should have considered \$1,910.85 in assets for the Appellant's life insurance policy number [REDACTED].
- 3) The evidence revealed that the Respondent should have considered \$2,010 in assets for the Appellant's life insurance policy number [REDACTED].
- 4) The preponderance of evidence verified that the Appellant's assets exceeded the \$2,000 asset eligibility limit.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's termination of the Appellant's SSI-Related Medicaid benefits because her assets exceeded the eligibility limit.

ENTERED this 25th day of June 2024.

Tara B. Thompson, MLS
State Hearing Officer