June 13, 2024

[redacted]

RE: [redacted] v. WV DOHS
ACTION NO.: 24-BOR-2121

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: Peter VanKleeck, WVDOHS/BFA

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 24-BOR-2212**

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 [redacted] 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 5, 2024.

The matter before the Hearing Officer arises from the April 18, 2024 decision by the Respondent to close the Appellant's Adult Medicaid.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:
- D-1 Hearing Summary
- D-2 WV Income Maintenance Manual (WV IMM), Chapter 3, §3.7.1.B
- D-3 Notice of Closure (CMC1), dated April 18, 2024

Appellant's Exhibits:
- A-1 [redacted] Checking Account statement for May 7, 2024; Secured Credit Card Savings Account Statement for March 3, 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) The Appellant was a recipient of Adult Medicaid benefits.

2) The Appellant was required to complete an eligibility review for his Adult Medicaid benefits.

3) The Appellant returned his completed eligibility review form.

4) On April 18, 2024, the Respondent sent notification to the Appellant that his Adult Medicaid benefits certification period was expiring April 2024 due to not completing an eligibility review. (Exhibit D-3)

5) The Appellant turned age 65 sometime in February 2024.

6) Although the Appellant returned his eligibility review for his Adult Medicaid, he was no longer eligible for Adult Medicaid benefits due to his turning age 65.

7) The Respondent failed to issue proper notice of closure of the Appellant's Adult Medicaid benefits due to not meeting the program requirements of being between the ages of 19 and under 65.

APPLICABLE POLICY

Code of Federal Regulations, 42 CFR §435.119, Coverage for individuals age 19 or older and under age 65 at or below 133 percent FPL, in pertinent part:

(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.

WV IMM, Chapter 23, §23.10.4, in 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 meet the following requirements:

- They are age 19 or older and under age 65;
- They are not eligible for another categorically mandatory Medicaid coverage group:
    - SSI
    - Deemed SSI
    - Parents/Caretaker Relatives o Pregnant Women
    - Children Under Age 19
    - Former Foster Children
- **They are not entitled to or enrolled in Medicare Part A or B;** and
- The income eligibility requirements described in Chapter 4 are met.

[Emphasis added]

WM IMM, Chapter 10, § 10.8.3, in part, explains that for the Adult Medicaid coverage group, the AG must be closed when the individual(s):

- Turns age 65;
- Begins receiving Medicare Part A or B; or
- Are parents or other caretaker relatives living with a dependent child under the age of 19 and the child no longer receives minimum essential coverage.

The AG is closed the month following the month of the change and after advance notice for the adverse action. The AG must be evaluated for all other Medicaid coverage groups prior to closure.

DISCUSSION

The Appellant had been receiving Medicaid coverage under the Adult Medicaid coverage group. Federal regulations provide Adult Medicaid coverage group benefits to individuals between the ages of 19 and under 65. Once an individual receiving Adult Medicaid benefits turns 65 years of age, those benefits must be terminated the month following the month of the change and after advance notice for the adverse action. The Appellant turned 65 years old sometime in February 2024.

An Adult Medicaid closure notice was sent to the Appellant on April 18, 2024, citing the reason for closure as the end of his certification period due to not completing an eligibility review. This was incorrect. The Appellant did submit an eligibility review; however, it was not processed prior to the issuance of the computer-generated notice. The Respondent's representative, Peter VanKleeck, testified that although the April 18, 2024 notice incorrectly stated the reason for the closure of the Appellant's Adult Medicaid benefits, the Appellant was ineligible for this program because he turned 65 years old in February. There was no evidence presented that the Respondent issued a proper closure notice citing the Appellant's ineligibility due to not meeting program requirements (being under the age of 65).

Policy requires that the Respondent close Adult Medicaid benefits the month after a participant turns 65 and after advance notice for the adverse action. A proper closure notice was not issued to the Appellant for closure of his Adult Medicaid benefits. Based on Mr. VanKleeck's testimony, and without dispute, the Appellant turned 65 sometime in February. Thus, according to policy,

the Respondent should have issued proper closure notice to the Appellant that his Adult Medicaid benefits were ending due to turning 65 years of age -- not due to a failure to return an eligibility review.

Whereas the Respondent did not show by a preponderance of evidence that it followed policy in closing the Appellant's Adult Medicaid benefits, its decision cannot be affirmed.

CONCLUSIONS OF LAW

1) As part of the eligibility requirement for Adult Medicaid benefits, an individual must be between the ages of 19 and under 65.

2) Policy requires that once an individual turns 65 years of age, Adult Medicaid benefits must be terminated the month after the month of the change and after advance notice for the adverse action.

3) The Appellant turned 65 years of age in February 2024 and became ineligible for Adult Medicaid benefits in March 2024, per policy.

4) The Respondent failed to send the Appellant proper notification of closure based on his turning 65 years of age and thus becoming ineligible for the Adult Medicaid coverage group benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's April 18, 2024 decision to close the Appellant's Adult Medicaid benefits due to a failure to complete an eligibility review. The case is **REMANDED** for proper notice and reinstatement of benefits pending proper notice.

ENTERED this 13th day of June 2024.

_____

Lori Woodward**,** Certified State Hearing Officer