



June 24, 2024

[REDACTED]

RE: [REDACTED] v. WV DOHS  
ACTION NO.: 24-BOR-2258

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: Ann Hubbard, WVDOHS/BFA

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-2258**

**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 13, 2024.

The matter before the Hearing Officer arises from the April 29, 2024 decision by the Respondent to deny the Appellant's application for Medicaid benefits.

At the hearing, the Respondent appeared by Ann Hubbard, Economic Services 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 Application for Adult Medicaid, signed January 25, 2024
- D-3 Application for Health Coverage & Help Paying Costs (DFA-SLA-1), March 18, 2024
- D-4 Notice of Medicaid and/or WVCHIP denial, dated April 29, 2024
- D-5 Notice of Medicaid and/or WVCHIP denial, dated April 29, 2024
- D-6 Worker desk copy of WV Income Maintenance Manual (WV IMM), Chapter 4, Appendix A (effective January and February 2024)
- D-7 Worker desk copy of WV Income Maintenance Manual (WV IMM), Chapter 4, Appendix A (effective March 2024)
- D-8 WV Income Maintenance Manual (WV IMM), Chapter 4, §4.7.4
- D-9 WV Income Maintenance Manual (WV IMM), Chapter 22, §22.16.5

**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 applied for Adult Medicaid benefits on February 5, 2024, on an outdated application form. (Exhibits D-1 and D-2)
- 2) The Respondent mailed the Appellant a new Medicaid application form, which she returned on March 29, 2024. (Exhibit D-3)
- 3) The Appellant reported that she and her daughter have private medical insurance through her husband’s employment.
- 4) The Appellant’s gross monthly income was calculated as \$3,096 based upon the reported yearly income of \$37,440. (Exhibit D-1)
- 5) On April 29, 2024, the Respondent sent notification to the Appellant that she was over the income limit for Medicaid and/or WVCHIP eligibility. (Exhibit D-4)
- 6) On April 29, 2024, the Respondent sent notification to the Appellant that her daughter was ineligible for WVCHIP coverage because her current health insurance plan did not qualify under acceptable health insurance plans outlined by the WVCHIP Board. (Exhibit D-5)

**APPLICABLE POLICY**

**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.

**WV IMM, Chapter 23, §23.10.4**, states, 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 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).

**WV IMM, Chapter 3, §3.7.3**, states, in 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.

**WV IMM, Chapter 4, §4.7.2**, explains 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.

**WV IMM, Chapter 4, §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.

**WV IMM, Chapter 4, §4.6.1.D**, explains 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.

**WV IMM, Chapter 4, §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.

**WV IMM, Chapter 4, Appendix A**, sets the income limit for a two-person MAGI Medicaid Assistance Group for January and February 2024 is \$2,186 and for March 2024 is \$2,266 (133% of the Federal Poverty Level)

**WV IMM Chapter 22, APPENDIX A, Definitions of Insurance for WVCHIP:**

**CREDITABLE (NON-EXCEPTED) INSURANCE BENEFITS:** Benefits that affect WVCHIP eligibility include, but are not limited to, the following:

- A group health plan
- Health Insurance Coverage
- Medicare
- Medicaid
- Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), Tricare or other health benefit plans for the United States uniformed services
- A medical care program of the Indian Health Service or of a tribal organization
- A state health benefits risk pool
- The Federal Employees Health Benefits Program
- A public health plan established or maintained by a state, county or other political subdivision of a state that provides health insurance coverage
- A health insurance benefits program for Peace Corps volunteers

**EXCEPTED INSURANCE BENEFITS:** Benefits that do not affect WVCHIP eligibility are as follows:

- Coverage only for accident, or disability income insurance, or any combination of the two
- Coverage issued as a supplement to liability insurance
- Liability insurance, including general liability insurance and automobile liability insurance
- Workers' compensation or similar insurance
- Automobile medical payment insurance
- Credit-only insurance
- Coverage for on-site medical clinics
- Limited scope dental or vision benefits when offered separately from other insurance
- Benefits for long-term care, nursing home care, home healthcare, community-based care, or any combination of these when offered separately from other insurance
- Coverage only for a specified disease or illness if offered as independent, non-coordinated benefits
- Other benefits, similar to those above, under which benefits for medical care are supplemental or incidental to other insurance benefits and are provided under a separate policy

## **DISCUSSION**

The Appellant applied for Adult Medicaid on February 5, 2024, on an outdated application form, which the Respondent could not use. Accordingly, the Respondent sent the Appellant a current application form, which she submitted on March 29, 2024, with a request for backdating. The Appellant reported a household of two and that she worked 40 hours per week and was paid bi-weekly. No income was reported on the March 29, 2024 application. However, the Appellant had reported yearly earnings of \$37,440 on the February 5, 2024 application. This amount was used to determine the Appellant's gross monthly income of \$3,096 ( $\$37,440/26 = 1440 \times 2.15$ ). The Appellant also reported that she and her daughter had private medical insurance coverage through her husband's employment. On April 29, 2024, the Respondent sent notification to the Appellant that she and her daughter were over the allowable income limit for Medicaid eligibility. Additionally, on April 29, 2024, notification was sent to the Appellant that her daughter did not qualify for WV CHIP coverage as her current health insurance plan did not qualify under the acceptable health insurance plans outlined by the WV CHIP Board.

The Appellant did not contest the income used to determine program eligibility. The Appellant testified that she brought this appeal because she believed that the income was wrong because it did not include shelter and utility expenses in calculating her income eligibility. The Respondent's representative, Ann Hubbard, testified that, per policy, shelter and utility expenses are not used in calculating income for Medicaid eligibility determinations. The Appellant did not dispute the Respondent's decision to deny WVCHIP benefits.

Because the Appellant's gross monthly income of \$3,096 was over the income limit of \$2,186 for the months of January and February 2024, and \$2,266, for an AG of two, for Medicaid eligibility, the Respondent's decision to deny the Appellant's application is affirmed. Because the Appellant's daughter, who has private medical insurance, does not qualify, per policy, for WVCHIP benefits, the Respondent's decision to deny the Appellant's application for Medicaid and/or WVCHIP is affirmed.

## **CONCLUSIONS OF LAW**

- 1) The Appellant applied for Medicaid and/or WVCHIP for an AG of 2.
- 2) Policy sets the income limit for Medicaid eligibility for an AG of 2 as \$2,186 for the months of January and February 2024.
- 3) Policy sets the income limit for Medicaid eligibility for an AG of 2 as \$2,266 for the month of March 2024.
- 4) The Appellant's gross income is \$3,096, which is over the allowable income limit for Medicaid eligibility.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's April 29, 2024 decision to deny the Appellant's Medicaid and/or WVCHIP benefits.

**ENTERED this 24<sup>th</sup> day of June 2024.**

---

Lori Woodward, Certified State Hearing Officer