July 9, 2024

RE: v. WV DoHS
ACTION NO.: 24-BOR-1995

Dear :

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: Jennifer Mynes, DoHS

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

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**Appellant,**

**v.** **Action Number: 24-BOR-1995**

**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 11, 2024.

The matter before the Hearing Officer arises from the Respondent's April 1, 2024 decision to terminate the Appellant's Adult Medicaid benefits.

At the hearing, the Respondent was represented by Jennifer Mynes, DoHS. The Appellant appeared and represented himself. Both witnesses were placed under oath and the following exhibits were submitted to the record:

**Department's Exhibits**:
D-1 Respondent's Representative's Statement
D-2 Notice, dated April 1, 2024
West Virginia Income Maintenance Manual (WVIMM) Income Chart

**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 Adult Medicaid benefits (Exhibit D-2).

2) On April 1, 2024, the Respondent issued a notice advising the Appellant his Adult Medicaid benefits would end after April 30, 2024, because his income exceeded the income eligibility limit (Exhibit D-2).

3) The Respondent reinstated the Appellant's Adult Medicaid eligibility during the pendency of the hearing.

4) The Respondent considered $2,008.35 gross monthly unearned income when determining the Appellant's Adult Medicaid eligibility (Exhibit D-2).

5) The Appellant submitted records to verify his income from his railroad retirement benefit during the eligibility determination process.

6) At the time of the April 1, 2024 eligibility decision, for a one-person assistance group (AG), 100% of the Federal Poverty Level (FPL) was $1,255 and 133% of the FPL was $1,670 (Exhibit D-3).

7) The Appellant does not receive any unearned income administered by the Social Security Administration (SSA).

## APPLICABLE POLICY

**West Virginia Income Maintenance Manual (WVIMM) § 1.2.2.B *Redetermination Process* provides in relevant sections:**

Periodic reviews of total eligibility for recipients are mandated by federal law.

**WVIMM § 4.3.2 Chart 2, *Countable Sources of Income*** provides that railroad retirement benefits are a countable source of income for determining Adult Group Medicaid eligibility.

**WVIMM § 23.10.4 *Adult Group*** provides that to be eligible for Adult Group Medicaid, the household's income must be equal to or below 133% of the Federal Poverty Level (FPL). This Medicaid coverage 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

  - 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.

**WVIMM § 4.7.4 *Determining Eligibility* provides in relevant sections:**

The AG's income must be at or below the applicable MAGI standard for the MAGI coverage groups.

Step 1: Determine the MAGI-based gross monthly income …

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.

**WVIMM §§ 10.6.5.A-B Assistance Group (AG) Closures and § 10.8.1 Change in Income provides in part:**

> When the client's income changes to the point that he becomes ineligible, the AG is closed. The Department is required to consider the individual's Medicaid eligibility under other coverage groups before notifying the individual that Medicaid eligibility will end. Advanced notice is required for any adverse action.

## DISCUSSION

The Respondent terminated the Appellant's Adult Medicaid benefits because the amount of the Appellant's gross monthly income exceeded the Adult Medicaid eligibility guidelines for a one-person AG. The Appellant testified to his understanding of the income limit but contended that he required continued Adult Medicaid eligibility because he requires ongoing expensive medical treatment for his chronic medical diagnoses.

The Board of Review lacks the authority to change policy or give eligibility considerations beyond what is written in the policy. Therefore, this Hearing Officer's decision is policy-based. As the policy does not provide any exceptions based on the Appellant's ability to afford healthcare absent

Medicaid benefits, this Hearing Officer is unable to award any income exclusions or eligibility exceptions and can only determine if the Respondent terminated his Adult Medicaid benefit eligibility according to the policy.

To be eligible for Adult Medicaid, the Appellant's gross monthly income could not exceed $1,670, which was 133% of the FPL at the time of the Respondent's eligibility decision. The Respondent had to prove by a preponderance of the evidence that the Appellant's gross monthly income exceeded the eligibility limit.

The Appellant testified that he does not receive SSA-administered unearned income. The Appellant testified that he submitted proof of his retirement income from his previous railroad employer and did not dispute the amount of monthly income used by the Respondent when determining his eligibility.

Under the policy, to determine whether the income is below the MAGI standard, the monthly gross income must be converted to a percentage of the FPL by dividing the gross monthly income amount by 100% of the FPL. The evidence revealed that the Appellant's gross monthly railroad retirement income was $2,008.35. At the time of the decision, 100% FPL for a one-person AG was $1,255.

$2,008.35 ÷ $1,255 = 1.600278 or 160%

Even after the application of a 5% income disregard, the Appellant's income would exceed 133% FPL.

160%<br>
- 5%<br>
155% of the FPL

The preponderance of evidence revealed that the Appellant's income exceeded 133% of the FPL for a one-person AG.

No evidence was submitted to indicate that the Appellant was entitled to or enrolled in Medicare Part A or B, was over age 65, or should be eligible for another categorically mandatory Medicaid coverage group. At the time of the hearing, the Appellant had applied for spenddown eligibility.

## CONCLUSIONS OF LAW

1) To be eligible for Adult Medicaid benefits, the Appellant's gross monthly income must be equal to or below 133% of the Federal Poverty Level (FPL).

2) The preponderance of the evidence demonstrated the Appellant's gross monthly income exceeded 133% of the FPL.

3) The Respondent correctly terminated the Appellant's Adult Medicaid benefits because his gross monthly income exceeded the Medicaid income eligibility limit for a one-person AG.

## DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's Adult Medicaid benefits.

**ENTERED this 9th day of July 2024.**

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Tara B. Thompson, MLS
**State Hearing Officer**