



August 15, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-2504

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Rose Spears, Department Representative

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

[REDACTED]

Appellant,

v.

Action Number: 24-BOR-2504

**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], III. 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 August 8, 2024, upon a timely appeal filed on June 21, 2024.

The matter before the Hearing Officer arises from the June 7, 2024 decision by the Respondent to terminate Medicaid benefits.

At the hearing, the Respondent appeared by Rose Spears. The Appellant appeared pro se. Appearing as a witness was the Appellant's father, [REDACTED]. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Summary
- D-2 Hearing Request Notification form
- D-3 Medicaid application dated May 30, 2024
- D-4 Hearing request form
- D-5 Notice of decision dated June 7, 2024

- D-6 West Virginia Income Maintenance Manual (excerpts)
- D-7 Case comments from the Respondent's data system regarding the Appellant's case
Unclear period of date entries

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 Medicaid recipient.
- 2) The Appellant submitted a renewal application (Exhibit D-3) for Medicaid benefits on May 30, 2024.
- 3) The Appellant reported (Exhibit D-3, pp. 12 – 13 of 17) that he is a “claimed dependent” of his father, [REDACTED] on tax filings.
- 4) The Appellant's application was processed with the Appellant included in the same household, for Medicaid purposes, based on the reported tax filings.
- 5) The Appellant's father, [REDACTED], confirmed that the Appellant is claimed as a dependent on his taxes.
- 6) The Respondent mailed the Appellant a notice (Exhibit D-5) advising him that his Medicaid benefits would stop, effective June 30, 2024.
- 7) The notice (Exhibit D-5) provided the basis for denial as “Your income is above the income limit for this type of assistance.”
- 8) There was no dispute of the income amounts attributed to the Appellant's parents.
- 9) The Appellant is not under 19 years of age. (Exhibit D-3)

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 3, §3.7.3, provides, in pertinent part:

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 the MAGI household size, the following step-by-step methodology is used for each applicant.

For purposes of applying the MAGI methodology:

- Child means natural, adopted, or stepchild;
- Parent means natural, adopted, or stepparent;
- Sibling means natural, adopted, half, or stepsibling.

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.

The MAGI household of the pregnant woman also includes her unborn child(ren).

This methodology must be applied to each applicant in the MAGI household separately:

STEP 1: IS THE APPLICANT A TAX FILER (and will NOT be claimed as a tax dependent)?

IF NO: Move to STEP 2.

IF YES: The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer. This is known as the tax filer rule.

STEP 2: IS THE APPLICANT CLAIMED AS A TAX DEPENDENT ON SOMEONE ELSE'S TAXES?

IF NO: Move to STEP 3.

IF YES: Test against the three exceptions below. If the answer to any of these exceptions is 'yes', then the applicant's MAGI household size must be calculated using STEP 3.

1. The applicant is claimed as a dependent by someone other than a spouse or parent.
2. The applicant is a child under 19 who lives with both parents, but both parents do not expect to file taxes jointly.

3. The applicant is a child under 19 who is claimed as a tax dependent to a non-custodial parent(s).

If none of these exceptions are true, then the applicant's Medicaid household consists of the applicant, the tax filer claiming him as a dependent, this could be two people filing jointly, any other dependents in the tax filer's household, and the applicant's spouse if they reside together. This is known as the tax dependent rule.

...

The WVIMM, Chapter 4, §4.7.1, provides, in pertinent part:

Income of each member of the individual's MAGI household is counted. The MAGI household is determined using the MAGI methodology established in Chapter 3...

DISCUSSION

The Appellant requested a hearing to appeal the decision of the Respondent to terminate Medicaid benefits based on excessive income. The Respondent must show, by a preponderance of the evidence, that it correctly closed the Appellant's Medicaid on this basis.

The Appellant received Medicaid benefits and submitted a renewal application in May 2024 to establish ongoing eligibility for those benefits. On this application, the Appellant reported that he was claimed by his father as a dependent. This fact was reiterated in testimony at the hearing. Policy sets the rules for how households are constructed, for purposes of counting income. The Appellant is not a tax filer. The Appellant is claimed as a tax dependent on his parents' taxes, and he is not under the age of 19. These undisputed facts lead to a policy instruction to construct the Appellant's household as "...the applicant [Appellant], the tax filer claiming him as a dependent, this could be two people filing jointly, any other dependents in the tax filer's household, and the applicant's spouse if they reside together..." The Appellant must be in a household with his parents, for Medicaid purposes.

Policy regarding Medicaid income requires all of the household members income to be included. This results in the income of the Appellant's parents to be included which is excessive for Medicaid eligibility. There was no dispute about the income sources or amounts offered at the hearing.

The Appellant's father contended that the Appellant does not have any income of his own and was approved for Medicaid in the past without the current household composition used by the Respondent. Although past policy is irrelevant for a current determination, the Respondent explained that cases such as the Appellant's were on relaxed rules related to eligibility redetermination during the COVID-19 public health emergency.

The Appellant's father contended that they were unaware of the policy and would have filed taxes differently had they been aware. These facts do not change the actual tax filing status. The Respondent makes its manual, the West Virginia Income Maintenance Manual, available online

for public inspection. The Respondent cannot provide financial advice to applicants. Even if it were ethical to do so, such advice could not be guaranteed against possible future policy changes. The fact the Appellant's parents were not aware their tax filing status would affect the Appellant's Medicaid eligibility has no bearing on the Respondent's determinations regarding household composition and income. The Respondent was correct to include the Appellant's parents in his household, and to terminate the Appellant's Medicaid benefits due to excessive income.

CONCLUSIONS OF LAW

- 1) Because the Appellant did not file taxes, is claimed as a tax dependent by his parents, and is not under the age of 19, he must be included in the same household as his parents for Medicaid purposes.
- 2) Because all the income of all members of the Appellant's Medicaid household must be counted, the Respondent was correct to terminate Medicaid benefits due to excessive income.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to terminate the Appellant's Medicaid benefits due to excessive household income.

ENTERED this _____ day of August 2024.

**Todd Thornton
State Hearing Officer**