



August 14, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/ BFA  
ACTION NO.: 24-BOR-2577

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: Amanda Rose, DoHS

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-2577**

**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 August 6, 2024.

The matter before the Hearing Officer arises from the Respondent's June 18, 2024 decision to terminate the Appellant's MWIN Medicaid benefits.

At the hearing, the Respondent appeared by Amanda Rose, DoHS. The Appellant appeared and represented herself. Both parties were placed under oath and the following exhibits were entered as evidence.

**Department's Exhibits:**

D-1 West Virginia Income Maintenance Manual (WVIMM) excerpts  
Property Deeds  
Certificate of Title to a Motor Vehicle, dated December 2, 2014, May 13, 2019, and October 4, 2022, and February 8, 2024

**Appellant's Exhibits:**

A-1 ██████████ Center records  
██████████ records and related facsimile correspondence records  
Notice of Rescheduled Hearing, dated July 23, 2024  
DoHS Notice, dated June 18, 2024  
██████████ Centers Patient Prescription record  
██████████ records  
██████████ records and related facsimile correspondence records:

[REDACTED] records

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 completed her Medicaid Work Incentive (MWIN) program eligibility review.
- 2) On June 18, 2024, the Respondent advised the Appellant by written notice that her application was denied, effective June 30, 2024, because her household assets exceeded the eligibility limit by \$23,191 (Exhibit A-1).
- 3) The June 18, 2024 notice advised:  
*Vehicle not counted the 2013 CRV Honda value \$7243.00 vehicle counted – 2002 Ford title 3932.00 value, 1998 Corolla 920.00 value, 2002 Chevy 4W 2339.00 value received 2<sup>nd</sup> home jointly owned /2 38k worth making clients portion 16k value making clients total countable assets 26191.00 minus the 3k asset limit 23191.00 over asset (Exhibit A-1).*
- 4) The respondent relied on West Virginia Income Maintenance Manual Chapter 26 when determining the Appellant’s eligibility (Exhibit A-1).
- 5) The Appellant receives medical treatment and medication for the management of her illnesses (Exhibit A-1).
- 6) On June 18, 2024, the Appellant submitted deeds and titles to establish the amount of the household’s assets for eligibility determination (Exhibit D-1).
- 7) On August 4, 2000, a Deed was issued establishing the Appellant and her spouse, [REDACTED] as jointly owning [REDACTED] (Exhibit D-1).
- 8) The August 4, 2000 Deed declared the total consideration paid for the property was \$38,000 (Exhibit D-1).
- 9) The August 4, 2000 Deed was filed for record in [REDACTED] on August 28, 2000 (Exhibit D-1).
- 10) On September 12, 2022, a Deed was issued establishing the Appellant and [REDACTED] as jointly owning multiple lots or parcels of real estate in [REDACTED] “particularly bounded and described as follows: [REDACTED]

[REDACTED]  
[REDACTED] (Exhibit D-1).

- 11) The same [REDACTED] real estate was conveyed to [REDACTED] jointly with rights of survivorship in a deed dated August 2, 2001 (Exhibit D-1). [REDACTED] died on May 27, 2020, and [REDACTED] died on June 18, 2021. Thereafter, the entire estate was devised to [REDACTED] the Appellant's husband, and appraised for \$95,000 (Exhibit D-1).
- 12) On December 2, 2014, a Certificate of Title to Motor Vehicle was issued naming the Appellant and [REDACTED] as joint owners of a [REDACTED] (Exhibit D-1).
- 13) On May 13, 2019, a Certificate of Title to a Motor Vehicle was issued naming the Appellant and [REDACTED] as joint owners of a [REDACTED] (Exhibit D-1).
- 14) On October 4, 2022, a Certificate of Title to a Motor Vehicle was issued naming the Appellant and [REDACTED] as joint owners of a [REDACTED] (Exhibit D-1).
- 15) On February 8, 2024, a Certificate of Title to a Motor Vehicle was issued naming the Appellant and [REDACTED] as joint owners of a [REDACTED] (Exhibit D-1).

### APPLICABLE POLICY

**West Virginia Income Maintenance Manual (WVIMM) § 26.1 Introduction** provides that the Medicaid Work Incentive (M-WIN) is a full-coverage Medicaid group to assist individuals with disabilities in becoming independent of public assistance by enabling them to enter the workforce without losing essential medical care.

**WVIMM § 26.2.1 Specific Requirements – Financial; § 26.7.1 Asset Limit; and § 5.4 Maximum Allowable Assets** provide that to be eligible for M-WIN, an individual with a spouse cannot have assets that exceed \$3,000. The total countable assets of the couple are combined to determine asset eligibility.

**WVIMM § 26.5 through 26.5.3 Eligibility Determination Groups** provides that only the disabled individual must be included in the Assistance Group (AG), only the client's income can be counted in the Income Group (IG), and the income limit for an individual is used for the Needs Group (NG).

**WVIMM § 26.7.2 List of Assets through § 26.7.3.C Independence Accounts** provides that assets are treated according to the policy in Chapter 5 for Supplemental Security Income (SSI) Related Medicaid with the following exceptions: retirement accounts; \$10,000 in liquid assets for a legally married couple; and independence accounts.

**WVIMM § 26.8 Data Exchange** provides that the data exchange and matches described in Chapter 6 apply to M-WIN.

**WVIMM § 26.9 Verification** provides that the policy and procedures described in Chapter 7 apply to M-WIN.

**WVIMM § 5.3.1.B Establishing the Date of Asset Eligibility – Supplemental Security Income (SSI) Medicaid Groups** provides that the client is not eligible for any month in which countable assets are more than the limit, as of the first moment of the month.

**WVIMM § 5.3.4 Accessibility of Assets** provides that a client may not have access to some assets. To be considered an asset, the item must be owned by, or available to, the client and available for disposition. If the client cannot legally dispose of it is not her asset. Examples of inaccessibility include assets encumbered due to litigation; property sold with a land sale contract; homestead property/non-homestead property being purchased by a land sale contract; and acting as the authorized agent of an organization.

For joint ownership, the meaning of such ownership may be indicated in one of the following ways:

- **AND-** joint ownership indicated by “and” between the names of the owners. Unless there is evidence to the contrary, each owner is assumed to own an equal, fractional share of the jointly owned asset. If the fractional share of the asset is not available to either owner without the consent of the other, and such consent is withheld, the asset is excluded as being inaccessible.
- **OR-** joint ownership indicated by “or” between the names of the owners. The asset is available to each owner in its entirety.
- **AND/OR –** joint ownership indicated by “and/or” between the names of the owners. The asset is available to each owner in its entirety.

For Medicaid only, assets may be marked as inaccessible for clients who are currently declared incapacitated by a physician and have no legal financial power of attorney.

**WVIMM § 5.5.39.A Homestead Property** provides that for M-WIN, the client’s homestead is the property on which she lives, and which is owned, or is being purchased by her, is excluded as an asset. The value of structures on the property, other than the client’s dwelling, is included in the exemption whether or not they are income-producing, except for mobile homes.

For M-WIN, only one dwelling is established as the client’s principal place of residence, and only the principal place of residence is excluded.

**WVIMM § 5.5.39.B Non-Homestead Property and Other Non-Homestead Property** provides that treatment of non-homestead property as an asset depends on its use. The equity in property, not otherwise excluded, is an asset.

**WVIMM § 5.5.48 Vehicles** provides that for M-WIN, the owner of a vehicle is generally the individual to whom it is titled. Only those vehicles of members of the AG are considered when determining vehicle assets.

The trade-in value is usually used as the Current Market Value (CMV) for M-WIN. The trade-in value is not increased by adding the value of low-mileage or other factors such as optional equipment. Possible sources for obtaining the trade-in value are listed in Section 7.3. Throughout the following items, the term “listed value” refers to the value obtained from one of the sources in Section 7.3.

**WVIMM § 5.5.48.C SSI-Related Medicaid** provides that for M-WIN, one vehicle is excluded as an asset for these coverage groups regardless of value when it is used for transportation of the AG or members of the AG’s household. Vehicles used for transportation include, but are not limited to, cars, trucks motorcycles, boats, snowmobiles, animal-drawn vehicles, and animals.

A temporarily disabled vehicle, normally used for transportation, also meets this criteria. The following meet the definition of a vehicle:

- A vehicle with a junked title
- A vehicle only used for recreational purposes, such as a boat or snowmobile.

When there is more than one vehicle, the vehicle exclusion is always applied in a manner that benefits the AG. The car with the highest value may not be the vehicle used for transportation; however, it may be excluded for that reason, if it is to the AG’s advantage.

To determine the CMV of all non-excluded vehicles, the equity value of any other vehicle(s) that is not excluded is an asset unless the vehicle(s) is excluded by another policy, such as property essential to self-support.

The listed trade-in value of the vehicle is used to determine equity value unless one of the following conditions exist:

- The client disagrees with the listed value.
- The vehicle value is not listed.

In either of these situations, the client is responsible for obtaining an estimate at her expense on form DFA-V-1, *Vehicle Estimate*, or providing similar documentation that contains the necessary information to establish CMV. If the DoHS has no objection to the client’s estimate, it is accepted as the value used in determining equity. The listed value is not used once an estimate has been obtained.

**WVIMM § 7.3.73 Verification Requirements – Vehicles** provides that for Non-MAGI Medicaid coverage groups — such as M-WIN — subject to an asset test when ownership of a different or additional vehicle is reported, the Worker must verify ownership and value. Sources of verification include vehicle title; registration; legal contract; National Automobile Dealers Association (NADA) book; DFA-V-1; DFA-RV-1; statement from a knowledgeable source; acceptable websites: NADA.com, CarPrices.com, AutoPricing.com, Intellichoice.com, Edmunds.com, and the Kelley Blue Book at kbb.com.

**WVIMM § 7.2.4 Worker Responsibilities** provides that the Worker has the following responsibilities in the verification process: The Worker may request verification if the verification provided or shown by the Department's records is incomplete, inaccurate, outdated, or inconsistent with recently reported information.

### **DISCUSSION**

Upon completion of the Appellant's eligibility review, the Respondent determined the amount of the Appellant's assets exceeded the Medicaid eligibility limit for the M-WIN program. The Appellant argued that she cannot afford her medical treatment without her M-WIN benefits.

While the Appellant argued she required continued M-WIN eligibility for medical reasons, the policy stipulates that the Appellant's assets may not exceed the asset eligibility limit.

During the hearing, the Respondent's representative testified that the Appellant submitted a review form and listed vehicle and property assets. The Respondent's worker testified that after the review form submission, the case was pending verification of the Vehicle Identification Numbers (VINs) so that the Respondent could determine the value of the Appellant's assets. The Appellant submitted deeds and titles to verify her asset ownership. The submitted evidence established that the Appellant and [REDACTED] own multiple properties and vehicles together.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of evidence that the value of the Appellant's assets exceeded the Medicaid M-WIN eligibility limit. The policy provides that the M-WIN eligibility asset limit for spouses is \$3,000.

#### **Non-Homestead Property**

The Respondent testified that the Appellant's property values were determined based on tax records. The Respondent's representative testified the value of the non-homestead property was determined to be \$16,000, which exceeded the \$3,000 asset limit. Although copies of the utilized tax records were not provided for evidentiary review, the Appellant did not contest the property value based on the tax records.

The policy stipulates that non-homestead properties owned by the Appellant must be considered as a countable asset. The Appellant testified that she and [REDACTED] reside at one property while her son resides at the other property. While the Appellant argued the only link she has with her non-homestead property is that the property remains in her name, the policy requires that the value of the non-homestead property be considered.

#### **Vehicle Values**

While policy permits the Appellant's highest valued vehicle to be excluded as an asset, the other vehicles owned by the Appellant were required to be included. The Respondent's representative testified she excluded the [REDACTED] based on having the highest asset value among the Appellant's owned vehicles. The Respondent determined the asset values using the VINs.

The Appellant contested the vehicle asset values used by the Respondent when determining her

Medicaid eligibility. She testified that while multiple vehicles are parked at her residence, multiple vehicles are non-working and are not in legal driving condition. The Appellant argued that the vehicles were not worth the value listed by the database used by the Respondent.

The policy instructs that the Worker may determine the trade-in value of non-excluded vehicles through a variety of sources. Documentary evidence was not submitted to establish which source the Respondent used to verify the [REDACTED] of the Appellant's non-excluded vehicles. The policy stipulates that the trade-in value may not be used if the client disagrees with the listed value and provides a process to permit the client to submit verification of the vehicle(s) value.

The policy instructs that if the client disagrees, the Appellant must complete a vehicle estimate form or provide similar documentation to reflect the CMV. It is unreasonable to expect the Appellant to know that she must request this form or submit alternative verification of the vehicles' values. Under the verification policy, when the Respondent obtains a report that information in their record is inaccurate or outdated, the worker is responsible for requesting verification. While the Respondent's representative testified that verification of the VINs was requested, the submitted evidence did not establish that the Respondent provided the Appellant with the relevant form or requested verification of the non-excluded vehicle's CMV after the utilized trade-in values were disputed.

While the Respondent failed to provide the Appellant with an opportunity to submit verification of the vehicles' trade-in value, the preponderance of evidence revealed that the asset amount of the non-homestead property exceeded the M-WIN eligibility limit of \$3,000. Because the value of the non-homestead property exceeded the M-WIN eligibility asset limit, the Respondent correctly denied the Appellant's eligibility.

### **CONCLUSIONS OF LAW**

- 1) To be eligible for M-WIN, an individual with a spouse cannot have assets that exceed \$3,000.
- 2) The preponderance of evidence demonstrated that the value of the Appellant's non-homestead property exceeded \$3,000.
- 3) The Respondent correctly terminated the Appellant's M-WIN benefit eligibility.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's M-WIN eligibility.

**ENTERED this 14<sup>th</sup> day of August 2024.**

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