August 21, 2024

[redacted]

RE: [redacted] vs. WVDoHS
BOR Action No.:24-BOR-2757

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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Ashley Wood, BFA

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted],

Appellant,

v. **Action Number: 24-BOR-2757**

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 August 14, 2024, on appeal filed July 23, 2024.

The matter before the Hearing Officer arises from the July 3, 2024 decision by the Respondent to terminate the Appellant's Medicare Premium Assistance benefits.

At the hearing, the Respondent appeared by Ashley Wood, Economic Service Worker. The Appellant appeared pro se. Appearing as a witness for the Appellant was [redacted]. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Case Comments dated January 23, 2023 through July 23, 2024
D-2 Case Benefit Summary
D-3 MREV recertification dated June 21, 2023
D-4 Verification Checklist dated June 27, 2023
D-5 Notice of Decision dated June 28, 2023
D-6 Notice of Decision dated June 28, 2023
D-7 PRC2 recertification dated June 28, 2023
D-8 Notice of Decision dated November 28, 2023
D-9 Notice of Decision dated December 4, 2023
D-10 CLSR recertification dated December 11, 2023

D-11 Notice of Decision dated January 9, 2024
D-12 PRC2 recertification dated June 24, 2024
D-13 Notice of Decision dated July 3, 2024

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 Qualified Medicare Beneficiary (QMB) Medicaid coverage.

2) On June 26, 2023, the Appellant completed a medical recertification for benefits. (Exhibit D-3)

3) On June 27, 2023, the Respondent requested that the Appellant provide checking account asset information, through a Verification Checklist (Exhibit D-4), by July 6, 2023.

4) On June 27, 2023, the Respondent denied the Appellant's QMB benefits for failure to provide the necessary checking account information.

5) On June 28, 2023, the Respondent issued Notice of Decisions (Exhibit D-5 and Exhibit D-6) informing the Appellant that his QMB coverage would be denied effective July 31, 2023.

6) On June 28, 2023, the Respondent completed a Supplemental Nutrition Assistance Program (SNAP) redetermination for the Appellant's benefits. (Exhibit D-7) As a result of the redetermination, the Respondent approved a decrease in the Appellant's SNAP benefits and erroneously approved QMB benefits. (Exhibit D-2)

7) The Appellant received QMB benefits through July 31, 2024. (Exhibit D-2)

8) On July 2, 2024, the Appellant completed an additional redetermination for SNAP benefits. (Exhibit D-12)

9) On July 3, 2024, the Respondent issued notice to the Appellant informing him that his QMB benefits would terminate effective July 31, 2024, due to excessive income.

10) On July 23, 2024, the Appellant requested a fair hearing concerning the July 3, 2024, QMB denial.

11) On July 24, 2024, the Respondent reinstated the Appellant's QMB benefits pending a decision from the State Hearing Officer.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 7.2.1 documents:

Verification of a client's statement is required when:

• Policy requires routine verification of specific information.
• The information provided is questionable.

To be questionable, it must be:

o Inconsistent with other information provided; or
o Inconsistent with the information in the case file; or
o Inconsistent with information received by the Department of Human Services (DOHS) from other sources; or
o Incomplete; or o Obviously inaccurate; or
o Outdated.

• Past experience with the client reveals a pattern of providing incorrect information or withholding information. A case recording must substantiate the reason the Worker questions the client's statement.
• The client does not know the required information.

West Virginia Income Maintenance Manual § 5.5.4 documents:

Bank Accounts and Certificate of Deposits are considered assets for AFDC-Related Medicaid.

West Virginia Income Maintenance Manual § 9.2.1 documents:

The DFA-6 may be used during any phase of the eligibility determination process. At the time of application, it is given or mailed to the applicant to notify him of information or verification he must supply to establish eligibility. When the DFA-6 is mailed at the time of application, the client must receive the DFA-6 within five working days of the date of application. If the client fails to adhere to the requirements detailed on the DFA-6, the application is denied or the deduction disallowed, as appropriate. The client must be notified of the subsequent denial by form DFA-NL-A. This form also notifies the client that his application will be denied, or a deduction disallowed, if he fails to provide the requested information by the date specified on the form. The Worker determines the date to enter to

complete the sentence, "If this information is not made available to this office by ..." as follows.

West Virginia Income Maintenance Manual § 9.2.1.c documents in part:

> The date entered in the DFA-6 must be at least 10 days from the date of issuance or a time agreed upon with the applicant.

West Virginia Income Maintenance Manual § 1.16.10.b documents in part:

> QMB, SLIMB and QI-1 cases are redetermined annually.
>
> > • QMB and SLIMB redeterminations are scheduled in the 12th month of eligibility.

West Virginia Income Maintenance Manual § 9.2.4.B documents in part:

> The Worker completes the DFA-NL-A by indicating:
> • The program for which benefits are being denied
> • The reason for denial
> • The name of the person whose income, assets, or other circumstances prevent approval
> • The Manual section on which the denial is based. If the denial is due to excessive assets, the notification letter must specify:
> • The asset limit
> • The total value counted for all the client's assets

DISCUSSION

On July 2, 2024, the Respondent terminated the Appellant's eligibility for Qualified Medicaid Beneficiary (QMB), a Medicare Premium Assistance program, when it determined the Appellant's income exceeded the guidelines set forth by governing policy. The Appellant appeals the Respondent's decision. The Respondent must prove by a preponderance of the evidence that the Appellant's countable income exceeded the program guidelines.

In June 2023, the Appellant completed a QMB redetermination. Upon conclusion of the redetermination, the Respondent requested the Appellant provide verification of his assets; specifically, a checking account, by July 6, 2023. Coincidently, the Appellant completed a redetermination for his Supplemental Nutrition Assistance Program (SNAP) benefits on the same date. However, according to case comments (Exhibit D-1) when the redetermination was processed, the Respondent's worker denied the Appellant's QMB benefits for failing to provide verification of his checking account. Sometime thereafter, a Respondent clerical error reinstated the Appellant's QMB benefits for June 2023 and those benefits remained effective through July 2024. On July 2, 2024, the Appellant completed an additional redetermination for SNAP benefits, which prompted the denial of the Appellant's QMB benefits, due to excessive income, effective

July 31, 2024.

Based on a review of evidence presented during the hearing, there are two errors concerning the Respondent's denial of the Appellant's MPA benefits which include verification of information and proper MPA redetermination.

Verification of Information

Governing policy mandates when additional information is required to determine an individual's eligibility for a program, an individual must be afforded ten (10) days to provide the requested information. At the Appellant's June 2023 QMB redetermination, the Respondent requested additional asset information and provided ten days to provide such information. However, a secondary SNAP redetermination resulted in the denial of the QMB redetermination and a subsequent clerical error reinstated and approved the QMB benefits continuously through July 2024, when an additional SNAP redetermination prompted the current denial due to excessive income. Based on this information, the Respondent failed to properly request additional information at the initial MPA redetermination.

Proper MPA Redetermination

Governing policy requires that MPA benefits be redetermined in the 12th month of eligibility. The Appellant's MPA benefits were erroneously approved for much of 2024. During that timeframe, the Appellant completed periodic SNAP redeterminations. There was no evidence presented to demonstrate that the Appellant was issued a proper Medicaid redetermination after twelve months of eligibility. Additionally, while the July 2024 Notice of Decision (Exhibit D-13) documents that QMB benefits were denied for excessive income, there was no evidence provided during the hearing regarding income information for an accurate eligibility determination.

Based on the Respondent's errors in providing an adequate timeframe for additional information and a proper redetermination, the Respondent's July 2024 decision to deny the Appellant's MPA benefits cannot be affirmed.

CONCLUSIONS OF LAW

1) Policy requires verification of bank account assets for MPA.

2) For Medicaid purposes, when additional information is required, 10 days must be afforded to an individual to provide requested verifications of information.

3) At the initial QMB redetermination in June 2023, the Respondent failed to afford the Appellant 10 days to provide requested verifications concerning checking account assets.

4) A June 2023, clerical error on behalf of the Respondent resulted in the reinstatement of QMB benefits through July 2024.

5) Policy requires MPA benefits be redetermined annually.

6) Evidence did not support that Appellant was provided a proper MPA redetermination and afforded the opportunity to provide additional asset information.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to deny the Appellant's QMB benefits. The matter is hereby **REMANDED** to the Respondent to provide a proper MPA redetermination of the Appellant's QMB benefits.

ENTERED this _____ day of August 2024.

_____

Eric L. Phillips
State Hearing Officer