



August 28, 2024

[REDACTED]

RE: [REDACTED] v. DoHS/BFA
ACTION NO.: 24-BOR-2889

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Mynes, Office of Constituent Services

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

██████████,

Appellant,

v.

Action Number: 24-BOR-2889

**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 27, 2024.

The matter before the Hearing Officer arises from the June 19, 2024, decision by the Respondent to terminate Qualified Medicare Beneficiary (QMB) benefits.

At the hearing, the Respondent appeared by Jennifer Mynes, Office of Constituent Services. The Appellant represented herself. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Termination dated June 19, 2024
- D-2 Email Correspondence with Jennifer Mynes and the Bureau for Medical Services dated August 13, 2024
- D-3 West Virginia Income Maintenance Manual Chapter 4 Appendix A

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's son, [REDACTED] was a recipient of QMB benefits.
- 2) [REDACTED] is eligible for Medicare due to end stage renal disease.
- 3) [REDACTED] underwent an eligibility redetermination for QMB in May 2024.
- 4) [REDACTED] father receives \$3,000.96 biweekly from employment, converted to \$6,452.06 monthly.
- 5) The Appellant and [REDACTED] do not have income.
- 6) The Respondent issued a notice on June 19, 2024, advising the Appellant that the total countable income exceeded the allowable limit for [REDACTED] to continue receiving QMB benefits (Exhibit D-1).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 23 explains Medicare Premium Assistance eligibility:

23.12.1 Qualified Medicare Beneficiaries (QMB)

Income Limit – 100% of the Federal Poverty Level (FPL)

Medicaid coverage is limited to payment of the Medicare, Part A and Part B premium amounts and payment of all Medicare co-insurance and deductibles, including those related to nursing facility services.

23.12.2 Specified Low Income Medicare Beneficiaries (SLIMB)

Income Limit – 101-120% FPL

Medicaid coverage is limited to payment of the Medicare Part B premium.

23.12.3 Qualified Individuals (QI-1)

Income Limit – 121-135% FPL

Medicaid coverage is limited to payment of the Medicare Part B premium.

West Virginia Income Maintenance Manual Chapter 3 explains eligibility determination groups for Medicaid:

3.15 QMB, SLIMB, and QI-1

3.15.1.A Who Must Be Included?

Only the individual or spouses who are eligible for QMB, SLIMB, or QI-1 are included in the assistance group (AG).

3.15.2 The Income Group

3.15.2.A Eligible Individual with No Spouse

Count only the individual's income.

3.15.3 The Needs Group

3.15.3.A Individual with No Spouse

The income limit for a single individual is used.

3.17 SSI-Related Medicaid

3.17.1.A Who Must Be Included?

Only the aged, blind, or disabled individual and his eligible aged, blind, or disabled spouse must be included, except when the spouse resides in a nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF/IID).

3.17.2 The Income Group

3.17.2.B Child

Count the income of the child and any income deemed from a parent(s). See Chapter 4 for deeming information

3.17.3 The Needs Group

3.17.3.B Child

The income limit for a single individual is used.

West Virginia Income Maintenance Manual Chapter 4 explains income eligibility for Medicaid:

Appendix A: Income Limits

SSI for one person: \$943

SSI for two persons: \$1,415

100% FPL for one person: \$1,255

120% FPL for one person: \$1,506

135% FPL for one person: \$1,695

4.2 Definitions

Allocation Standard: The difference between the maximum Supplemental Security Income (SSI) payment for one and two persons.

Parental Living Allowance: The SSI payment amount for one or two persons, depending on the number of parents in the home.

4.12.1 Determining Eligibility for QMB, SLIMB, and QI-1

Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. Deemed income is addressed in Section 4.12.2 below.

Countable income is determined as follows:

- Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions. See Section 4.14.2.
- Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions. See Section 4.14.2.
- Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income.
- Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels for the appropriate number of persons. See Section 4.14 for SSI-Related deeming procedures.

If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client(s) is eligible. Eligibility for these coverage groups is determined as follows:

- QMB – Income is less than or equal to 100% FPL.
- SLIMB – Income is greater than 100% FPL, but less than or equal to 120% FPL.
- QI-1 – Income is greater than 120% FPL, but less than or equal to 135% FPL.

14.14.2 Income Disregards and Deductions

The following disregards and deductions are applied, if applicable.

4.14.2.A Earned Income

Disregards and deductions apply only to earned income. Any unused portion of the disregards or deductions is not applied to unearned income.

4.14.2.A.1 SSI \$20 Disregard

The remainder of the \$20 income disregard. See Unearned Income below.

4.14.2.A.2 SSI Earned Income Disregard

\$65 and half of the remainder are subtracted from earned income and from gross profit from self-employment earnings. See Section 4.14.3 below.

4.14.2.A.3 SSI Impairment-Related Work Expenses

Expenses for items or services that are directly related to enabling a person with a disability to work and that are necessarily incurred by the individual due to a physical or mental impairment.

4.14.2.A.4 SSI-Related Work Expenses (Blind Persons Only)

A deduction for impairment-related expenses necessary for employment is allowed, such as a guide dog, cane training, purchase of special equipment needed to perform or advance on the job, etc.

4.14.2.A.5 Earnings Diverted to a Plan to Achieve Self-Support (PASS)

Any earnings diverted to a PASS account are deducted from income.

4.14.2.A.6 SSI Student Child Earned Income Disregard

\$2,290 per month, but no more than \$9,230 in a calendar year, is disregarded when the child is unmarried, under age 22, is not the head of household and takes one or more courses of study and attends classes.

4.14.2.B Unearned Income

4.14.2.B.1 SSI \$20 Disregard

A \$20 disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

4.14.2.B.2 Unearned Income Diverted to a PASS

Any unearned income diverted to a PASS account is deducted from income.

4.1.1.A.1 For SSI-Related Children Only

One-third of the child support intended for the SSI-Related child is disregarded.

4.14.2.B.3 Death Benefits

The portion of a lump-sum payment received as a result of the death of an individual, which is used to pay the expenses of the last illness and burial of that individual, is deducted.

4.14.3 Determining Eligibility

Countable income is determined by subtracting any allowable disregards and deductions in the Budgeting Method section above from the total countable gross income. Deemed income is addressed in Public Assistance Maintenance Income below. NOTE: When income is deemed from an ineligible spouse, the income is added to the client's income in Steps 1 and 2. When income is deemed from a parent(s), the predetermined deemed amount is added to the child's unearned income in Step 1.

Countable income is determined as follows:

- Step 1: Determine the total countable gross unearned income and subtract the \$20 disregard, if applicable.
- Step 2: Determine the total countable earned income. Subtract the following in order:
 - Remainder of SSI \$20 disregard
 - SSI \$65 earned income disregard
 - SSI impairment-related expenses
 - One-half of remaining earned income
 - SSI work-related expense deductions (blind persons only)
 - Earnings diverted to a PASS
 - SSI student child earned income disregard
- Step 3: Add the result from Step 1 to the result from Step 2.

- Step 4: Subtract unearned income diverted to a PASS account, the Death Benefits deduction and, for children, the child support disregard. The result is the total monthly countable income.
- Step 5: Compare the amount in Step 4 to the SSI Maximum Payment Level, indicated in Appendix A for the appropriate number of persons. If the net countable monthly income is equal to or less than the appropriate SSI Maximum Payment Level, the assistance group (AG) is eligible, and no further steps are necessary. If the net countable monthly income is above the appropriate SSI Maximum Payment Level, continue with Step 6.
- Step 6: Compare the amount in Step 4 to the Medically Needy Income Level (MNIL) for the appropriate number of persons. See Public Assistance Maintenance Income in Section 4.14.4.D.1 below. If the net countable monthly income is equal to or less than the appropriate MNIL, the AG is eligible without a spenddown. If it is in excess of the appropriate MNIL, the AG must meet a spenddown. See Section 4.14.4.J.

4.14.4.D.4 Deeming from Parent(s) to SSI-Related Child(ren)

The deeming calculations are as follows:

- Step 1: Determine the total countable gross unearned income of the eligible and ineligible parents.
- Step 2: Subtract the needs of all ineligible children. The need of each ineligible child is determined separately by subtracting the child's own income from the Allocation Standard. After a separate determination is made for each ineligible child, the allocations are added together and then subtracted from income.
- Step 3: Determine the total countable gross earned income of the eligible and ineligible parents.
- Step 4: Subtract the needs of the ineligible children, which were not subtracted in Step 2.
- Step 5: Subtract the SSI \$20 disregard from the amount in Step 2.
- Step 6: Subtract any remainder of the SSI \$20 disregard from the amount in Step 4.
- Step 7: Apply the SSI \$65, plus half of the earned income disregard, to the amount remaining from Step 6.
- Step 8: Add together the amounts from Steps 5 and 7.
- Step 9: Subtract the Parental Living Allowance. See Section 4.2, Definitions. The remaining amount is deemed to the SSI-Related child as unearned income. If there is more than one SSI-Related child, divide the remaining amount equally among the SSI-Related children.

DISCUSSION

Policy states the income limit for QMB benefits is 100% of the FPL for the size of the assistance group, or \$1,255 monthly for one-person. The Respondent terminated [REDACTED] QMB benefits due to excessive income.

The Appellant, [REDACTED] mother, contended that her husband's income had previously been excluded

from determining [REDACTED] eligibility for QMB benefits. The Appellant argued that according to policy, only the income of the spouse of the QMB recipient is counted in determining eligibility. The Appellant did not dispute the amount of income on record for her husband.

Medicare Premium Assistance groups (QMB, SLIMB, and QI-1) are SSI-Related Medicaid categories. Pursuant to policy, the income group for SSI-Related Medicaid includes the income of a child and income deemed to the child from the parent. The income limit for a single individual is used when a child is a QMB recipient with income deemed from the parent.

Following the steps found in policy, the income that is deemed to [REDACTED] from his parents is \$1,768.53:

Step 1: Determine the total countable gross unearned income of the eligible and ineligible parents. **\$0 unearned income**

Step 2: Subtract the needs of all ineligible children. **No ineligible children**

Step 3: Determine the total countable gross earned income of the eligible and ineligible parents. **\$6,452.06 gross earned income**

Step 4: Subtract the needs of the ineligible children, which were not subtracted in Step 2. **No ineligible children**

Step 5: Subtract the SSI \$20 disregard from the amount in Step 2. **\$0**

Step 6: Subtract any remainder of the SSI \$20 disregard from the amount in Step 4. **\$6,452.06 minus \$20 = \$6,432.06**

Step 7: Apply the SSI \$65, plus half of the earned income disregard, to the amount remaining from Step 6. **\$6,432.06 minus \$65 = \$6,367.06 divided by 2 = \$3,183.53**

Step 8: Add together the amounts from Steps 5 and 7. **\$3,183.53**

Step 9: Subtract the Parental Living Allowance. See Section 4.2, Definitions. The remaining amount is deemed to the SSI-Related child as unearned income. If there is more than one SSI-Related child, divide the remaining amount equally among the SSI-Related children. **\$3,183.53 minus \$1,415 = \$1,768.53**

An additional \$20 SSI disregard is subtracted from the income deemed from the parents, which makes the total countable income for [REDACTED] \$1,748.53. The total countable income exceeds the allowable limits for QMB, SLIMB and QI-1 benefits. The Respondent's decision to terminate the Appellant's QMB benefits is affirmed.

CONCLUSIONS OF LAW

- 1) The income limit for QMB benefits for a one-person assistance group is \$1,255.

- 2) Income from ineligible parents is deemed to an eligible child for SSI-Related Medicaid groups.
- 3) The earned income deemed from [REDACTED] father to [REDACTED] is \$1,768.53.
- 4) After all the allowable income deductions are applied, the total countable income for [REDACTED] is \$1,748.53.
- 5) The income is excessive for [REDACTED] to continue receiving QMB benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate Qualified Medicare Beneficiary benefits for child [REDACTED]

ENTERED this 28th day of August 2024.

Kristi Logan
Certified State Hearing Officer