



September 24, 2024



RE: [REDACTED] v. DoHS/BFA
ACTION NO.: 24-BOR-2707

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,

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

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

cc: Lona Charley, [REDACTED] DoHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-2707

**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 September 17, 2024.

The matter before the Hearing Officer arises from the July 12, 2024, decision by the Respondent to deny Long Term Care Medicaid benefits for June 2024 due to excessive assets.

At the hearing, the Respondent appeared by Lona Charley, ██████████ DoHS. Appearing as a witness for the Respondent was Sean Hamilton, ██████████ DoHS. The Appellant appeared by ██████████. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

None

Appellant's Exhibits:

- A-1 Email dated September 9, 2010
- A-2 Email dated October 3, 2011
- A-3 Email dated June 13, 2012
- A-4 Email dated January 29, 2014
- A-5 Email dated November 14, 2014
- A-6 Email dated May 9, 2016
- A-7 Letter from ██████████ dated September 11, 2024

- A-8 Notice of Long Term Care Medicaid Approval dated July 12, 2024
- A-9 [REDACTED] Life Insurance Policy for [REDACTED]
- A-10 Application for Long Term Care Medicaid for [REDACTED]
- A-11 Notice of Contribution to the Cost of Care dated August 1, 2024 for [REDACTED]
- A-12 [REDACTED] Life Insurance Policy for [REDACTED]
- A-13 Notice of Long Term Care Medicaid Approval dated August 30, 2024 for [REDACTED]
- A-14 Email dated July 3, 2024
- A-15 Email dated August 5, 2024
- A-16 [REDACTED] Life Insurance Policy for [REDACTED]

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 applied for Long Term Care Medicaid benefits.
- 2) The Appellant purchased a [REDACTED] life insurance policy on June 3, 2024, for \$316,700.
- 3) The [REDACTED] life insurance policy has no cash surrender value and no surrender privileges.
- 4) The Respondent issued a notice of denial on July 12, 2024, advising the Appellant that her assets exceeded the allowable limit to receive Long Term Care Medicaid benefits for June 2024.
- 5) The total countable assets attributed to the Appellant for June 2024 were \$1,399.06 in liquid assets and \$316,700 for the life insurance policy.
- 6) Long Term Care Medicaid benefits for the Appellant were approved effective July 1, 2024.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 5 explains asset eligibility:

5.3.1.B Establishing Date of Asset Eligibility – SSI Medicaid Groups

The SSI Medicaid Groups include: SSI-Related Medicaid, Children with Disabilities Community Service Program (CDCSP), Pickle Amendment Coverage (PAC), Qualified Disabled Working Individual (QDWI), Qualified Medicare Beneficiary (QMB), Specified Low Income Medicare Beneficiary, and Qualified Individual 1 (QI-1). The asset eligibility determination for these applications must be made as of the first moment (defined as 12:00 a.m. of the first day) of the month of eligibility. The client is not eligible

for any month in which countable assets are in excess of the limit, as of the first moment of the month. Increases in countable assets during one month do not affect eligibility unless retained into the first moment of the following month.

If the applicant's assets, as of the first moment of the month, are within the asset limit, and during the month his assets increase to above the asset limit, he is still eligible for that month. The Worker may use any of the following items to determine first-of-the-month account balances:

- Printed or online bank statements and passbooks;
- The applicant's check register or any bank-issued document. This includes, but is not limited to, ATM transaction receipts and/or deposit and/or withdrawal receipts; and/or
- The account transaction history on a bank's automated telephone customer service line that provides complete transaction information, (i.e., deposits, withdrawals, cleared checks, and transfers to/from the account with transaction dates).

When the applicant states that a check has not cleared the bank, the Worker may use any of the means listed above to verify that the funds are legally obligated.

5.4 Maximum Allowable Assets

SSI Medicaid Groups: \$2,000 for a one-person assistance group

DISCUSSION

Policy stipulates that the asset limit for SSI-Related Medicaid groups, including Long Term Care Medicaid, is \$2,000. Asset eligibility is determined as of the first moment, defined as 12:00 a.m., of the first day of the month of eligibility.

The Respondent's witness, Lona Charley, testified that the Appellant's Long Term Care Medicaid benefits were denied for June 2024 due to the availability of the funds used to purchase a [REDACTED] life insurance policy of \$316,700. Ms. Charley contended that the life insurance policy allowed the Appellant to cancel the policy within 30 days of the effective date of the policy and receive a full refund. Ms. Charley stated that because the Appellant had the option to cancel the policy in June 2024, she had access to the \$316,700 that was used to purchase the policy.

The Appellant's representative, [REDACTED], argued that [REDACTED] life insurance policies are an exempt asset for Long Term Care Medicaid and if exempt, cannot be considered an accessible asset. [REDACTED] contended that the Appellant did not cancel the policy, and the Respondent could not make a decision based on what an individual may or may not do in the future. [REDACTED] noted that several other clients of his had been approved for Long Term Care Medicaid benefits, all of whom have identical [REDACTED] life insurance policies, and they were not penalized for the first month of eligibility based on the possibility of canceling those policies.

The [REDACTED] life insurance policy in question was not provided as evidence by either party. When questioned about the effective date of the policy, Ms. Charley testified the policy was

effective June 3, 2024. [REDACTED] did not refute this date.

Pursuant to policy, asset eligibility is determined as of 12:00 am of the first day of the month of eligibility. As of June 1, 2024, the Appellant had \$316,700 that she used to purchase the life insurance policy on June 3, 2024. The Appellant's representative failed to provide evidence or testimony that this money was spent or otherwise encumbered prior to June 1, 2024.

Whereas the preponderance of the evidence established that the Appellant's assets exceeded the asset limit of \$2,000 as of June 1, 2024, the Respondent's decision to deny Long Term Care Medicaid benefits for June 2024 is affirmed.

CONCLUSIONS OF LAW

- 1) The asset limit for Long Term Care Medicaid for a one-person assistance group is \$2,000.
- 2) Asset eligibility is established as of 12:00 am of the first day of the month of eligibility.
- 3) The Appellant purchased a [REDACTED] life insurance policy on June 3, 2024.
- 4) There was no evidence or testimony provided to document the \$316,700 used to purchase the life insurance policy was spent or legally obligated prior to June 1, 2024.
- 5) The Appellant's assets exceeded the \$2,000 asset limit as of June 1, 2024.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny Long Term Care Medicaid benefits for the Appellant for June 2024.

ENTERED this 24th day of September 2024.

Kristi Logan
Certified State Hearing Officer