



September 4, 2024

[REDACTED]

RE: [REDACTED] v. WVD_oHS
ACTION NO.: 24-BOR-2856

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Tammy Conley, WVD_oHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-2856

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on August 28, 2024.

The matter before the Hearing Officer arises from the August 2, 2024, decision by the Respondent to terminate Home and Community-Based Waiver Medicaid benefits.

At the hearing, the Respondent appeared by Tammy Conley, Economic Service Worker, WVDoHS. The Appellant was represented by her husband, ██████████, family friend. All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated July 19, 2024
- D-2 Notice of Decision dated August 2, 2024
- D-3 Checking and savings account statements

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 Home and Community-Based (HCB) Waiver Medicaid benefits.
- 2) The Appellant's HCB Waiver case was due for redetermination in July 2024.
- 3) The Respondent sent the Appellant a Notice of Decision on July 19, 2024, indicating that HCB Waiver benefits would close effective August 2024 based on failure to complete a case review (Exhibit D-1).
- 4) The Appellant later completed the case review.
- 5) At the time of the review, the Appellant resided with her husband.
- 6) The Respondent determined that the Appellant's assets were excessive based on the balances of two checking accounts and one savings account (Exhibit D-3).
- 7) The Respondent sent the Appellant a Notice of Decision on August 2, 2024, indicating that her HCB Waiver benefits would close effective August 2024 based on excessive assets (Exhibit D-2).
- 8) Information provided during the hearing is insufficient to make a determination of financial eligibility.
- 9) The Respondent erred in calculating assets since income is not counted as an asset unless it is retained until the month after receipt.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 5.4 states that the combined, non-excluded asset limit for SSI Medicaid Groups is \$3,000 when spouses live together, but only one spouse is eligible.

West Virginia Income Maintenance Manual Chapter 5.5.4 states that bank accounts are countable assets for SSI Medicaid Groups.

West Virginia Income Maintenance Manual Chapter 5.3.2 states that money counted as income when received becomes an asset if retained within the month after the month of receipt.

DISCUSSION

Policy states that the combined, non-excluded asset limit for SSI Medicaid Groups is \$3,000 when spouses live together, but only one spouse is eligible. Money counted as income when received becomes an asset if retained within the month after the month of receipt.

The Appellant's representative, [REDACTED] testified that the Social Security income of the Appellant and her husband, which is direct deposited into their bank accounts, should not have been considered in determining countable assets for the HCB Waiver Program.

The Respondent's representative, Tammy Conley, agreed that income should not have been counted as an asset unless it was retained until the month after the month of receipt. As incomplete bank statements were provided as evidence for some of the Appellant's accounts, the Hearing Officer cannot ascertain how much income was carried over from the previous month to make a determination of countable assets.

Based on information provided during the hearing, the Respondent's decision to terminate HCB Waiver benefits based on excessive assets cannot be affirmed.

CONCLUSIONS OF LAW

- 1) The Respondent determined that the Appellant's assets were excessive for the HCB Waiver Program during a case redetermination in July 2024.
- 2) During the hearing, the Respondent concluded that an error occurred when calculating the Appellant's countable assets.
- 3) As the Respondent erred in calculating the Appellant's countable assets, the termination of HCB Waiver benefits cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to terminate HCB Waiver Medicaid benefits effective August 2024. As evidence provided during the hearing is insufficient to make an asset eligibility determination, the case is **REMANDED** to the Respondent to calculate countable assets and determine HCB Waiver eligibility.

ENTERED this 4th day of September 2024

**Pamela L. Hinzman
State Hearing Officer**