



October 30, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS  
ACTION NO.: 24-BOR-3034

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: Kara Pendleton, WVDoHS

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-3034**

**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 October 9, 2024.

The matter before the Hearing Officer arises from the July 26, 2024, decision by the Respondent to deny Adult Medicaid benefits.

At the hearing, the Respondent appeared by Kara Pendleton, Economic Services Supervisor, WVDoHS. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's husband. All witnesses were sworn, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Case Comments from Respondent's computer system
- D-2 Supplemental Nutrition Assistance Program (SNAP) and Medicaid/WV CHIP review form mailed on May 13, 2024
- D-3 Verification Checklist dated June 18, 2024
- D-4 Income verification for ██████████
- D-5 MAGI Medicaid Income Budget information
- D-6 Notice of Decision dated July 26, 2024
- D-7 West Virginia Income Maintenance Manual Chapter 4.3.2
- D-8 West Virginia Income Maintenance Manual Chapter 4, Appendix A

**Appellant's Exhibits:**

- A-1 Information concerning [REDACTED]
- A-2 Information from [www.Medicaid.gov](http://www.Medicaid.gov)
- A-3 Internal Revenue Service information regarding ministerial housing allowance

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 Medicaid benefits were due for redetermination.
- 2) The Appellant submitted a Medicaid review form on May 31, 2024 (Exhibits D-1 and D-2).
- 3) The Respondent sent the Appellant a Verification Checklist on June 19, 2024, requesting that income verification for the Appellant and her husband be provided by June 28, 2024 (Exhibit D-3).
- 4) On July 22, 2024, the Appellant contacted the Respondent inquiring about the status of her case as she had received a closure notice (Exhibit D-1).
- 5) The Respondent's worker discovered that the requested verification was received by the Department on or about June 26, 2024; however, the Appellant still needed to provide the June 16, 2024, pay stub for [REDACTED] (Exhibit D-1).
- 6) The Appellant contacted the Respondent on July 25, 2024, to inquire about the status of her Medicaid benefits and indicated that she had supplied all requested information (Exhibit D-1).
- 7) The Respondent averaged the Appellant's self-employment income from [REDACTED] as \$596.33 per month after allowable deductions (Exhibits D-1 and D-4).
- 8) [REDACTED], who is employed as a youth pastor, receives a gross annual salary of \$46,280 from [REDACTED]. After Individual Retirement Account contributions of \$10,500 are subtracted, [REDACTED] adjusted gross income is \$35,780 annually (\$2,981.67 per month) (Exhibit D-4).
- 9) The Respondent determined that [REDACTED] gross monthly income from [REDACTED] was \$5,733.32 by using his gross pay and the housing allowance listed on his pay stubs. No deductions are listed on the pay stubs for IRA contributions (Exhibits D-1 and D-4).

- 10) The Respondent calculated combined gross monthly household income as \$6,329.65 (Exhibit D-5).
- 11) The Appellant's household is a six-person needs group for Modified Adjusted Gross Income (MAGI) Adult Medicaid purposes.
- 12) The income limit for a six-person needs group for MAGI Medicaid is \$4,651 (133% of the Federal Poverty Level) (Exhibit D-8).
- 13) The Respondent sent the Appellant a Notice of Decision on July 26, 2024, indicating that Medicaid benefits were denied beginning September 1, 2024, based on excessive income (Exhibit D-6).
- 14) The Respondent admitted that an error occurred when calculating the Appellant's self-employment income and the correct monthly amount should have been \$585.63. This would bring the monthly household gross income counted by the Respondent to \$6,318.95.

### **APPLICABLE POLICY**

Code of Federal Regulations Title 42 §435.603 explains the application of Modified Adjusted Gross Income:

**(a) Basis, scope, and implementation.**

(1) This section implements section 1902(e)(14) of the [Act](#).

(2) Effective January 1, 2014, the [agency](#) must apply the financial methodologies set forth in this section in determining the financial [eligibility](#) of all individuals for [Medicaid](#), except for individuals identified in [paragraph \(j\)](#) of this section and as provided in [paragraph \(a\)\(3\)](#) of this section.

**(b) Definitions.** For purposes of this section—

*Code* means the [Internal Revenue Code](#).

**(d) Household income - (1) General rule.** Except as provided in paragraphs (d)(2) through (d)(4) of this section, household income is the sum of the [MAGI-based income](#), as defined in [paragraph \(e\)](#) of this section, of every individual included in the individual's household.

**(e) MAGI-based income.** For the purposes of this section, [MAGI-based income](#) means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the [Code](#), with the following exceptions—

(1) An amount received as a lump sum is counted as income only in the month received.

(2) Scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.

(3) *American Indian/Alaska Native exceptions.* The following are excluded from income:

- (i) Distributions from Alaska Native [Corporations](#) and Settlement Trusts;
- (ii) Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the [Secretary](#) of the Interior;
- (iii) Distributions and [payments](#) from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from—
  - (A) Rights of ownership or possession in any lands described in [paragraph \(e\)\(3\)\(ii\)](#) of this section; or
  - (B) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;
- (iv) Distributions resulting from real property ownership interests related to natural resources and improvements—
- (v) [Payments](#) resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom;
- (vi) Student financial assistance provided under the Bureau of Indian Affairs education programs.

West Virginia Income Maintenance Manual Chapter 23.10.4 states, in pertinent part:

As a result of the Affordable Care Act (ACA), the Adult Group was created, effective January 1, 2014. Eligibility for this group is determined using Modified Adjusted Gross Income (MAGI) methodologies established in Section 4.7. Medicaid coverage in the Adult Group is provided to individuals who are aged 19 or older and under age 65.

To be eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

West Virginia Income Maintenance Manual Chapter 4.7.2 states that MAGI-based income includes:

- Adjusted gross income (**taxable income less deductions/adjustments**), excluding:
  - Certain taxable American Indian/Alaska Native income
  - Taxable scholarships/awards used for educational purposes
- Non-taxable Social Security benefits
- Tax-exempt interest
- Foreign earned income

To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count, for the current month. The MAGI differs from the adjusted gross income, because MAGI accounts for additions and adjustments.

West Virginia Income Maintenance Manual Chapter 4.7.2.B states that IRA deductions are subtracted from the individual's income for MAGI Medicaid purposes.

West Virginia Income Maintenance Manual Chapter 4.3.2 states that allowances and reimbursements are considered as countable sources of income for MAGI Medicaid coverage groups.

Internal Review Service, Topic No. 417, Earnings for Clergy, found on [www.irs.gov](http://www.irs.gov) states:

A licensed, commissioned, or ordained minister who performs ministerial services as an employee may be able to exclude from gross income the fair rental value of a home provided as part of compensation (a parsonage) or a housing allowance provided as compensation if it is used to rent or otherwise provide a home. A minister who is furnished a parsonage may exclude from gross income the fair rental value of the parsonage, including utilities. However, the amount excluded can't be more than reasonable compensation for the minister's services.

A minister who receives a housing allowance may exclude the allowance from gross income to the extent it's used to pay expenses in providing a home. Generally, those expenses include rent, mortgage interest, utilities, and other expenses directly relating to providing a home. The amount excluded can't be more than reasonable compensation for the minister's services.

If you own your home, you may still claim deductions for mortgage interest and real property taxes. If your housing allowance exceeds the lesser of your reasonable compensation, the fair rental value of the home, or your actual expenses directly relating to providing the home, you must include the amount of the excess in income.

In order to be able to exclude the housing allowance from income, the minister's employing organization must officially designate the housing allowance as such before paying it to the minister.

The fair rental value of a parsonage or the housing allowance is excludable only for income tax purposes. The minister must include the amount of the fair rental value of a parsonage or the housing allowance for social security coverage purposes.

West Virginia Income Maintenance Manual Chapter 4.7.4 states that the applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage groups.

Step 1: Determine the MAGI-based gross monthly income for each MAGI household income group (IG).

Step 2: Convert the MAGI household's gross monthly income to a percentage of the FPL by dividing the current monthly income by 100% of the FPL for the household size. Convert the result to a percentage. If the result from Step 2 is equal to or less than the appropriate income limit, no disregard is necessary, and no further steps are required.

Step 3: If the result from Step 2 is greater than the appropriate limit, apply the 5% FPL disregard by subtracting five percentage points from the converted monthly gross income to determine the household income.

Step 4: After the 5% FPL income disregard has been applied, the remaining percent of FPL is the final figure that will be compared against the applicable modified adjusted gross income standard for the MAGI coverage groups.

West Virginia Income Maintenance Manual Chapter 4, Appendix A, states that the gross income limit for a six-person MAGI Medicaid household is \$4,651 per month (133% of the Federal Poverty Level).

## DISCUSSION

Policy states that to calculate countable income for MAGI Adult Medicaid purposes, the worker must determine the adjusted gross income for each member of the MAGI household for the current month. The MAGI differs from the adjusted gross income, because MAGI accounts for additions and adjustments. IRA deductions are subtracted from the individual's income for MAGI Medicaid purposes. IRS regulations state that a licensed, commissioned, or ordained minister who performs ministerial services as an employee may be able to exclude from gross income the fair rental value of a home provided as part of compensation (a parsonage), or a housing allowance provided as compensation if it is used to rent or otherwise provide a home. To be eligible for MAGI Adult Medicaid, income must be equal to or below 133% of the Federal Poverty Level (FPL) for the needs group size.

The Appellant contended that [REDACTED] housing allowance should not be considered when calculating countable income for MAGI Medicaid purposes nor should his IRA deductions be counted as income. She referred to [www.Medicaid.gov](http://www.Medicaid.gov) and Internal Revenue Service online information concerning MAGI-based methodology and pointed out that a minister's housing allowance is excludable from gross income for income tax purposes. [REDACTED] cited the high cost of purchasing an insurance plan for a family of six and contended that the Respondent's action is contrary to the federal government's intent for Medicaid policy. He also indicated that [REDACTED] is currently receiving no income from self-employment.

Policy states that IRA contributions are subtracted from an individual's income for MAGI Medicaid purposes. Therefore, the Respondent's decision to count [REDACTED] IRA contributions as part of his income is incorrect.

Kara Pendleton, Economic Services Supervisor for the Respondent, contended that housing income is considered reimbursement and is a countable source of income for Adult Medicaid benefits.

While income maintenance policy states that "allowances and reimbursements" are countable sources of income for MAGI Medicaid coverage groups, policy also instructs that MAGI-based income includes taxable income as defined by the IRS. IRS regulations state that a licensed, commissioned, or ordained minister who performs ministerial services as an employee may be able

to exclude from gross income the fair rental value of a home provided as part of compensation (a parsonage), or a housing allowance. Because the IRS allows the cost of a minister's housing to be excluded from gross income, it should not have been considered in the Respondent's income calculation. Therefore, the Respondent's decision to count [REDACTED] housing payment as income is incorrect.

### **CONCLUSIONS OF LAW**

- 1) The gross income limit for a six-person MAGI Adult Medicaid household is \$4,651 per month (133% of the Federal Poverty Level).
- 2) The Appellant had countable MAGI-based self-employment income of \$585.63 per month at the time of her Medicaid review.
- 3) The Appellant's husband's IRA contributions and ministerial housing allowance should not have been considered when calculating his countable income.
- 4) The Appellant's husband's countable MAGI-based income was \$2,981.67 per month at the time of redetermination.
- 5) The total countable household income was \$3,567.30 per month.
- 6) The Appellant's household is eligible for MAGI Adult Medicaid benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to deny MAGI Adult Medicaid benefits. Benefits should be issued retroactively to the date of the completed redetermination.

**ENTERED this 30th day of October 2024**

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**Pamela L. Hinzman  
State Hearing Officer**