



October 2, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA  
ACTION NO.: 24-BOR-3057

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,

Lori Woodward, J.D.  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Amanda Simmons, WV DoHS/BFA

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-3057**

**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 25, 2024.

The matter before the Hearing Officer arises from the August 7, 2024 decision by the Respondent to deny the Appellant Medicare Premium Assistance (MPA) benefits.

At the hearing, the Respondent appeared by Amanda Simmons, Economic Service Supervisor. The Appellant was present but was represented by ██████████. The witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1 Notice of denial, dated September 25, 2024 (submitted post-hearing without objection from the Appellant's representative)

**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 receiving Medicaid benefits.
- 2) The Appellant underwent a Medicaid eligibility review on June 24, 2024.
- 3) As part of the review process, the Respondent requested verification of income and permanent resident status.
- 4) Because the requested verification had not been returned, on August 7, 2024, the Respondent sent notification of Medicare Premium Assistance (MPA) denial based upon being over the income limit for program eligibility and not meeting the alien residency requirements.
- 5) Sometime after the August 7, 2024 denial notice, the Respondent received the requested alien residency card and income verifications from the Appellant.
- 6) The Appellant receives Retirement, Survivor, Disability Insurance (RSDI) in the amount of \$800.70 per month.
- 7) The Respondent determined that the Appellant's spouse receives earned income of \$3,096.87 which was deemed to the Appellant.
- 8) The countable income for the Appellant was determined to be \$2,296.63 per month.
- 9) Because the Appellant was determined to be potentially eligible for Medicaid benefits, verification of his assets were requested by the Respondent.
- 10) The Appellant returned verification of the only assets he held which was a jointly held checking with his wife with a balance of \$28,251.69 as of July 17, 2024, and \$28,010.63 as of August 21, 2024.
- 11) The asset limit for MPA eligibility for an income group of 2 is \$14,130.
- 12) The Respondent processed the verifications and on September 25, 2024, determined that the Appellant is over the asset limit for SSI-Related/Non-Cash Assistance Medicaid benefits and MPA eligibility. (Exhibit D-1)
- 13) Notification of the September 25, 2024 notification was given to the Appellant's representative at the hearing and was also mailed to him.



**WV IMM, Chapter 23, §23.12.3, *Qualified Individual 1:***

***Income: 121% –135% FPL***

***Assets: \$9,430 – Individual/\$14,130 – Couple***

Medicaid coverage is limited to payment of the Medicare Part B premium. An individual or couple (spouses) is eligible for limited\* Medicaid coverage when all the following conditions are met:

- The individual must be enrolled in Medicare, Part A. He must be entitled in any of the following three ways:
  - By being age 64 years and 9 months old or older;
  - By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 24 months or longer; or,
  - By having end-stage renal disease;
- The individual or spouses must meet the income test detailed in Chapter 4; and,
- The individual or spouses must meet the asset test detailed in Chapter 5.

**WV IMM, Chapter 5, §5.6.3.A.1, *Adults:*** To determine the countable assets of the AG, the assets of spouses, including non-qualified noncitizens, who are living together are combined.

Assets of an SSI Medicaid Group recipient and his spouse who lives with him are added together and compared to the asset level for two.

**WV IMM, Chapter 5, §5.4, *Maximum Allowable Assets, in part:***

SSI Medicaid, AFDC-Related, Medicaid, PAC, CDCSP: \$3,000 for a two-person assistance group. For SSI Medicaid Groups: In cases involving spouses who are living together, only one of whom is eligible, the asset limit for two persons is used for their combined non-excluded assets.

**WV IMM, Chapter 5, §5.4, *Maximum Allowable Assets, in part:***

Medicare Premium Assistance: \$14,130 for a two-person assistance group. NOTE: In cases involving spouses who are living together, only one of whom is eligible, the asset level for two persons is used for their combined non-excluded assets, except when one spouse is a long-term care recipient.

**WV IMM, Chapter 5, §5.5.4 *Savings Accounts, Christmas Clubs, Checking Accounts, CDs, in part:***

For a joint checking or savings account, or jointly owned time deposit, refer to the jointly owned assets section under each program of assistance. The current month's income deposited in accounts is not counted as an asset for that month. Checks dated or posted before the usual check receipt date are treated as if they were received in the usual month of receipt.

**DISCUSSION**

The Appellant was receiving Medicaid benefits and was required to undergo a Medicaid eligibility review on June 24, 2024. In processing the Appellant's review, the Respondent determined that verifications were needed for proof of permanent resident status and his spouse's income. On August 7, 2024, the Respondent issued a notification of Medicare Premium Assistance (MPA) denial because the requested information had not been returned. The Appellant filed an appeal on August 19, 2024, based upon the August 7, 2024 denial.

Sometime after the August 7, 2024 notice of denial, the local office received the requested verifications from the Appellant. However, the worker determined that the Appellant was over the income limit. Subsequently, a pre-hearing conference was held wherein the Respondent's representative, Amanda Simmons, received updated income verifications. The Appellant's Medicaid was re-determined and because the new income calculations showed the Appellant income-eligible for MPA, specifically the Qualified Individual Assistance (QIA) benefit, Ms. Simmons then requested verification of the Appellant's assets. Ms. Simmons testified that one week prior to this hearing, the verification of assets was returned by the Appellant. The Appellant's only asset is a jointly held checking account with his spouse in the amount of \$28,251.69 as of July 17, 2024, and \$28,010.99 as of August 21, 2024. Ms. Simmons testified that due to this asset amount, the Appellant was over the asset limit for MPA (\$14,130) and MS (\$3,000) Medicaid categories. Notification was presented to the Appellant at the hearing and was mailed on September 25, 2024.

The Appellant's representative, [REDACTED] testified that she did understand the law. However, she argued that the Appellant and his wife do not have the extra money to pay for his medical expenses. [REDACTED] explained that the Appellant and his wife saved their money while he was working and it is all that they have in terms of assets – they have no other assets. [REDACTED] contends that the Appellant should not be penalized for his accumulated savings. It is noted that the income determination or the amount of the jointly held checking account were not disputed.

Policy establishes the income and asset limits for Medicaid eligibility. Jointly held bank accounts of spouses are counted when determining the asset limit for MPA and MS eligibility. The undisputed testimony showed that the Appellant was over the asset limit for Medicaid eligibility. Policy does not allow for needs-based exceptions or exclusions. The Board of Review is without authority to change policy or award eligibility beyond policy and can only determine if the Respondent correctly applied policy when determining the Appellant's Medicaid eligibility.

Whereas the Respondent showed by a preponderance of evidence that it correctly determined that the Appellant was over the asset limit for Medicaid eligibility, the Respondent's decision to deny Medicaid benefits to the Appellant is affirmed.

### **CONCLUSIONS OF LAW**

- 1) Policy requires that checking accounts that are jointly held with spouses be included in asset determination for MPA and MS categories of Medicaid.
- 2) The Appellant's jointly held checking account with his spouse as of July 17, 2024 was \$28,251.69 and \$28,010.99 as of August 21, 2024.
- 3) Policy sets the eligibility asset limit for a couple as \$3,000 for SSI-Related/Non-Cash Assistance Medicaid category.
- 4) Policy sets the eligibility asset limit for a couple to be \$14,130 for MPA Medicaid category.

5) The Appellant is over the asset limit for Medicaid eligibility.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant MS and MPA Medicaid benefits.

**ENTERED this 2<sup>nd</sup> day of October 2024.**

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Lori Woodward, Certified State Hearing Officer