



October 8, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 24-BOR-3175

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: Anna Yoder, WV DoHS/BFA

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-3175

**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 October 2, 2024.

The matter before the Hearing Officer arises from the August 29, 2024 decision by the Respondent to terminate the Appellant's Adult Medicaid benefits.

At the hearing, the Respondent appeared by Anna Yoder, Economic Service Worker Senior. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Handwritten statement from the Appellant, date stamped received by the Respondent July 31, 2024
- D-3 ██████████ Checking and Savings account statement end date July 19, 2024
- D-4 Notice of Adult Medicaid and/or WVCHIP closure, dated August 29, 2024
- D-5 Worker desk copy of WV Income Maintenance Manual (WV IMM), Chapter 4, Appendix A (effective July 1, 2024)
- D-6 WV IMM, Chapter 4, §4.4.1.D (excerpt)

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 Adult Medicaid in an Assistance Group (AG) of one.
- 2) The Appellant has verified a regular bi-weekly income of \$442 from self-employment. (Exhibits D-1 through 3)
- 3) The Appellant receives Social Security Disability Insurance (SSDI) of \$1,644 per month. (Exhibits D-1 through 3)
- 4) The Respondent calculated the Appellant's total monthly income to be \$2,594.30 ($\$442 \times 2.15 = \$950.30 + \$1,644$). (Exhibits D-1 and D-4)
- 5) The Appellant's gross income (\$2,594.30) divided by 100% of the FPL (\$1255) equals 206.77%.
- 6) The Appellant's gross income expressed as a percentage of the FPL (206.77%), minus the 5% MAGI-Based Income Disregard produces a result (201.77%) that also exceeded 133% of the FPL.
- 7) The income limit for Adult Medicaid eligibility is 133% of the Federal Poverty Level (FPL), or \$1,670 for an AG of 1. (Exhibit D-5)
- 8) On August 29, 2024, the Respondent issued a notice of closure of the Appellant's Adult Medicaid benefits. (Exhibit D-4)

APPLICABLE POLICY

Code of Federal Regulations, 42 CFR §435.119 provides the following information concerning Adult Medicaid coverage:

Coverage for individuals age 19 or older and under age 65 at or below 133 percent FPL.

(a) **Basis.** This section implements section 1902(a)(10)(A)(i)(VIII) of the Act.

(b) **Eligibility.** Effective January 1, 2014, the agency must provide Medicaid to individuals who:

- (1) Are age 19 or older and under age 65;
- (2) Are not pregnant;
- (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act;

- (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with [subpart B of this part](#); and
- (5) Have household income that is at or below 133 percent FPL for the applicable family size.

WV IMM, Chapter 23, §23.10.4, states, in 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 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).

WV IMM, Chapter 3, §3.7.3, states, in part: The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

WV IMM, Chapter 4, §4.7.2, explains that eligibility for the MAGI coverage group is determined by using the adjusted gross income (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. The worker uses the budgeting method established in Section 4.6.1, Budgeting Method, to anticipate future income amounts, consider past income sources, and build monthly income amounts based upon the applicant's reported income.

WV IMM, Chapter 4, §4.7.3, states that the only allowable income disregard is an amount equivalent to five percentage points of 100% of the Federal Poverty Level (FPL) for the applicable MAGI household size. The 5% FPL disregard is not applied to every MAGI eligibility determination and should not be used to determine the MAGI coverage group for which an individual may be eligible. The 5% FPL disregard will be applied to the highest MAGI income limit for which an individual may be determined eligible.

WV IMM, Chapter 4, §4.6.1.D, explains that conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Bi-weekly amount (every two weeks) x 2.15
- Semi-monthly (twice/month) x 2.

WV IMM, Chapter 4, §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.

WV IMM, Chapter 4, Appendix A, sets the income limit for a one-person Adult Medicaid Assistance Group as \$1,670 (133% of the Federal Poverty Level)

DISCUSSION

The Appellant was receiving Adult Medicaid in an assistance group of one who receives SSDI of \$1,644 and self-employment income of \$442 bi-weekly. The Respondent's worker determined that the Appellant was over the income limit for Adult Medicaid coverage group and issued a closure notification on August 29, 2024.

Under the policy, to be eligible for the Adult Medicaid coverage group for a one-person AG, the AG's income cannot exceed \$1,670, or 133% of the Federal Poverty Level (FPL). The Respondent's representative testified that the Appellant's countable income was \$2,594.30 and exceeded the 133% FPL income eligibility limit. When calculating the Appellant's income of \$2,594.30 and converting it to a percentage rate for FPL, it is determined that his FPL is 206.77%.

The Appellant did not contest the income amounts used by the worker to determine program eligibility. Instead, he argued that the income he receives is just enough to cover his monthly living expenses and that he cannot afford to pay for his necessary medical expenses. The Appellant explained that he is in remission from [REDACTED] and has other medical issues which may need surgical attention in the future. The Appellant testified that he only needed Medicaid coverage for an additional year because he will become Medicare eligible next year.

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 Appellant is over the allowable income limit for Adult Medicaid eligibility, the Respondent's decision to close the Appellant's Adult Medicaid is affirmed.

CONCLUSIONS OF LAW

- 1) The Appellant was a recipient of Adult Medicaid in an AG of 1.
- 2) Policy sets the income limit for Adult Medicaid eligibility for an AG of 1 as \$1,670.
- 3) The Appellant's total gross income is \$2,594.30, which is over the allowable income limit for Adult Medicaid eligibility.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's August 29, 2024 decision to terminate the Appellant's Adult Medicaid benefits.

ENTERED this 8th day of October 2024.

Lori Woodward, Certified State Hearing Officer