



October 24, 2024

[REDACTED]

RE: [REDACTED] v. WVD_oHS
ACTION NO.: 24-BOR-3210

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: Heather Perry, WVD_oHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-3210

**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 16, 2024.

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

At the hearing, the Respondent appeared by Heather Perry, Economic Services Supervisor, WVDoHS. The Appellant appeared *pro se*. 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 Income Summary
- D-3 West Virginia Income Maintenance Manual Chapter 3.7.3
- D-4 Notice of Decision dated August 26, 2024

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 Adult Medicaid benefits.
- 2) The Appellant had been receiving Adult Medicaid benefits while his wife, [REDACTED] was not working.
- 3) The Appellant's wife returned to work.
- 4) The Appellant submitted a Medicaid application on August 20, 2024, through the Federally Facilitated Marketplace (Exhibit D-1).
- 5) The Appellant has been separated from his wife for several years but resides with her and is still legally married to her.
- 6) [REDACTED] gross monthly income from [REDACTED] is \$3,170 (Exhibit D-2).
- 7) The Appellant receives Social Security Disability Income of \$896 per month (Exhibit D-2).
- 8) Total gross household income was calculated as \$4,066 per month.
- 9) The income limit for a two-person Adult Medicaid Assistance Group is \$2,266 per month (133% of the Federal Poverty Level).
- 10) The Respondent advised the Appellant that he could apply for Aged/Disabled Waiver Medicaid benefits; however, he declined Waiver services (Exhibit D-1).
- 11) The Respondent sent the Appellant a Notice of Decision on August 26, 2024, indicating that Adult Medicaid benefits would stop effective September 1, 2024, due to excessive income (Exhibit D-4).

APPLICABLE POLICY

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 4.7.3 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.

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 3.7.3 states that the needs group is the number of individuals included in the MAGI household size based upon the MAGI rules for counting household members. To determine MAGI household size, the following step-by-step methodology is used for each applicant... In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.

West Virginia Income Maintenance Manual Chapter 4.7.1 states that the income of each member of the individual's MAGI household is counted.

West Virginia Income Maintenance Manual Chapter 4, Appendix A, states that the gross income limit for a two-person MAGI Medicaid household is \$2,266 per month (133% of the Federal Poverty Level).

West Virginia Income Maintenance Manual Chapter 9.3.1 states that a client must receive advance notice in all situations involving adverse actions except those described in the Adverse Actions Not Requiring Advance Notice section. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which the benefits are affected.

West Virginia Income Maintenance Manual Chapter 9.3.1.A states that Medicaid closure is an action that requires 13-day adverse action notice.

DISCUSSION

Policy states that the gross income of each member of an individual's MAGI household must be counted. In the case of married couples who reside together, each spouse must be included in the MAGI household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse. The gross income limit for a two-person MAGI Adult Medicaid household is \$2,266 per month (133% of the Federal Poverty Level). Medicaid benefit closure is an action that requires 13-day advance adverse action notice.

The Appellant contended that his income is \$896 in Social Security benefits and his wife's income does not pertain to him. He testified that he has been separated from his wife for several years but will not seek a divorce because of his religious beliefs. The Appellant stated that he cannot afford to move out of the house in which he and his wife currently reside.

Economic Services Supervisor Heather Perry testified that the Appellant had applied for Aged/Disabled Waiver Medicaid benefits, but the Department received information from KEPRO indicating that he had declined Waiver services. The Appellant stated that he does not recall filling out paperwork for Aged/Disabled Waiver Medicaid benefits and that he will not answer any questions by telephone because he gets numerous spam calls per day. The Appellant testified that "a lady" came out to visit him, but that he did not need someone to come to his house and clean for him. Ms. Perry explained that the Aged/Disabled Waiver Medicaid Program would give the Appellant full Medicaid coverage if he was determined eligible and the assistance provided by the homemaker could be tailored to meet his individual needs.

The Respondent incorrectly terminated the Appellant's Medicaid benefits effective September 1, 2024, because the August 26, 2024, Notice does not meet adverse action advance notification requirements. Therefore, the Respondent's decision to terminate Medicaid benefits effective September 1, 2024, cannot be affirmed.

CONCLUSIONS OF LAW

- 1) The gross income limit for a two-person MAGI Adult Medicaid household is \$2,266 per month (133% of the Federal Poverty Level).
- 2) The Appellant resides with his wife and her income must be counted in the Appellant's MAGI Adult Medicaid needs group.
- 3) The total countable household income is \$4,066 per month.
- 4) The Appellant's household income exceeds the MAGI Adult Medicaid income limits.

- 5) The Respondent failed to give adequate notice prior to terminating the Appellant's Adult Medicaid benefits effective September 1, 2024.
- 6) The Appellant must be provided with adequate notice of case closure before Medicaid benefits can be terminated.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to terminate MAGI Adult Medicaid benefits effective September 2024 as indicated in the August 26, 2024, Notice. The matter is **REMANDED** to the Respondent to provide adequate notice of adverse action. The Appellant's Medicaid benefits must be restored until proper advance notice is sent.

ENTERED this 24th day of October 2024

**Pamela L. Hinzman
State Hearing Officer**