October 23, 2024

[redacted]

RE: [redacted] v. WV DoHS/BFA
ACTION NO.: 24-BOR-3331

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,

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

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

cc: Ann Hubbard, WV DoHS/BFA

WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted],

Appellant,

v. **Action Number: 24-BOR-3331**

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 [redacted]. 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 22, 2024.

The matter before the Hearing Officer arises from the September 18, 2024 decision by the Respondent to close the Appellant's Adult Medicaid benefits.

At the hearing, the Respondent appeared by Ann Hubbard, Economic Services Supervisor. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:
- D-1 Summary
- D-2 Notice of closure, dated September 18, 2024
- D-3 WV Income Maintenance Manual (IMM), Chapter 10, §10.8.3
- D-4 IMM, Chapter 23, §23.10.4

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, who was receiving MAGI Adult Medicaid benefits, turned 65 years old in September 2024.

2) On September 18, 2024, the Respondent sent the Appellant notification that his Adult Medicaid benefits were closing due to the fact that he had aged out of that coverage group and that he was ineligible for Medical Assistance. (Exhibit D-2)

3) The Appellant currently receives Medicare benefits.

4) The Respondent sent an application to the Appellant for Medicare Premium Assistance benefits.

APPLICABLE POLICY

Code of Federal Regulations, **42 CFR §435.119, Coverage for individuals age 19 or older and under age 65 at or below 133 percent Federal Poverty Level:**

(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, 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 meet the following requirements:

- **They are age 19 or older and under age 65**;
- They are not eligible for another categorically mandatory Medicaid coverage group:
    - SSI
    - Deemed SSI
    - Parents/Caretaker Relatives o Pregnant Women
    - Children Under Age 19

    - Former Foster Children
- **They are not entitled to or enrolled in Medicare Part A or B;** and
- The income eligibility requirements described in Chapter 4 are met.

[Emphasis added]

WM IMM, Chapter 10, §10.8.3, in part, explains that for the Adult Medicaid coverage group, the AG must be closed when the individual(s):

- Turns age 65;
- Begins receiving Medicare Part A or B; or
- Are parents or other caretaker relatives living with a dependent child under the age of 19 and the child no longer receives minimum essential coverage.

The AG is closed the month following the month of the change and after advance notice for the adverse action. The AG must be evaluated for all other Medicaid coverage groups prior to closure.

WVIMM, Chapter 9, §9.3.1.A, ***Adverse Actions Requiring Advance Notice,*** in part**,** requires for Medicaid AG closures or removal of a client from the AG, advance notice of adverse action be issued.

WVIMM, Chapter 9, §9.3.1.C, ***Beginning and Ending of the Advance Notice Period,*** in part, states that the 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed. If the 13-day notice period ends on a weekend or holiday, the action is taken on the first subsequent workday.

DISCUSSION

Policy requires that when an individual turns 65 years of age, Adult Medicaid coverage must be closed the month following the month of the change and after advance notice for the adverse action. The AG must be evaluated for all other Medicaid coverage groups prior to closure.

The Appellant was receiving MAGI Medicaid benefits under the Adult coverage group. Because the Appellant turned 65 years old, the Appellant no longer qualified for Adult Medicaid coverage. On September 18, 2024, the Respondent sent notification of his benefit closure effective October 1, 2024. The September 18, 2024 closure notification indicated that the Appellant was ineligible for Medical Assistance for the month of October in addition to the closure of his Adult Medicaid benefits due to his age.

The Appellant did not contest the closure, averring that he was unaware of age limit policy for his Medicaid benefit, and stated he now understands the policy. The Appellant affirmed that he does receive Medicare benefits. It is noted that the Respondent sent an application form to the Appellant for Medicare Premium Assistance benefits and was urged by the Respondent's representative to complete the application as soon as possible.

Because the Appellant is over the age of 65 and receives Medicare benefits, he is no longer eligible for Adult Medicaid benefits. The Respondent's notification of closure indicates that he was not eligible for Medical Assistance and that his Adult Medicaid was being closed due to his age. The

Respondent's decision to close the Appellant's MAGI Adult Medicaid coverage group benefits is affirmed.

CONCLUSIONS OF LAW

1) Per policy, Adult Medicaid coverage must be closed the month after an individual turns 65 years old and after evaluation for all MAGI and NON-MAGI groups and advance notice for the adverse action.

2) The Appellant turned 65 years old in September 2024 and became ineligible for the MAGI Adult Medicaid coverage group.

3) On September 18, 2024, notification was sent to the Appellant of his Adult Medicaid benefit closure due to his age effective October 1, 2024, in addition to being ineligible for Medical Assistance.

4) The Respondent correctly closed the Appellant's MAGI Adult Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to close the Appellant's MAGI Adult Medicaid benefits effective October 1, 2024.

ENTERED this 23rd day of October 2024.

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Lori Woodward**,** Certified State Hearing Officer