



November 14, 2024

[REDACTED]

RE: [REDACTED] v. WVDOHS
ACTION NO.: 24-BOR-3377

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Mynes, Department Representative

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

██████████,

Appellant,

v.

Action Number: 24-BOR-3377

**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 31, 2024, upon a timely appeal filed on October 2, 2024.

The matter before the Hearing Officer arises from the September 12, 2024 decision by the Respondent to terminate Medicaid benefits due to excessive income.

At the hearing, the Respondent appeared by Jennifer Mynes. The Appellant appeared by her son, ██████████. Appearing as a witness was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case summary
- Notice of decision, dated September 12, 2024
- Screen print of excerpted case comments from the Respondent's data system

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 Medicaid, specifically, SSI-Related Medicaid, in a one-person assistance group. (Exhibit D-1)
- 2) The Appellant reported the onset of monthly Social Security income of \$1659.
- 3) The Appellant is over the income limit for SSI-Related (SSI-R) Medicaid.
- 4) The Appellant is over the income limit for Qualified Medicare Beneficiary (QMB) Medicaid benefits.
- 5) The Respondent mailed a notice dated September 12, 2024 (Exhibit D-1) to the Appellant, advising that she was over income for SSI-R Medicaid and QMB Medicaid benefits.
- 6) This notice (Exhibit D-1) states, regarding both SSI-R Medicaid and QMB Medicaid benefits, that the Appellant "...will not receive this benefit after 2024-09-30."
- 7) The Respondent met the adverse action notification requirements with this notice (Exhibit D-1).

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 23, §23.11.3, addresses SSI-Related (SSI-R) Medicaid, and requires that, "...Countable income is under the Medically Needy Income Limit (MNIL)..."

WVIMM, Chapter 23, §23.12.1, addresses Qualified Medicare Beneficiary (QMB) Medicaid, and requires income under 100% of the Federal Poverty Level (FPL).

WVIMM, Chapter 4, Appendix A, shows the MNIL for one person as \$200 and 100% FPL for one person as \$1133.

WVIMM, Chapter 9, §9.3.1, addresses advance notice requirements, and provides, in part, "...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..."

DISCUSSION

The Appellant requested a fair hearing to contest the decision of the Respondent to terminate the Appellant's Medicaid benefits in two categories – SSI-Related (SSI-R) Medicaid and Qualified Medicare Beneficiary (QMB) Medicaid – due to excessive income. The Respondent must show, by preponderance of the evidence, that it correctly terminated Medicaid on this basis.

The Appellant was a recipient of SSI-R Medicaid who reported the onset of Social Security benefits in the amount of \$1659 per month. The Appellant, who was represented by family members [REDACTED] had no dispute of this income amount. The category of Medicaid in question paid for services important to the Appellant, and the family questioned the amount of advance notice they received from the Respondent's notice.

The Respondent correctly terminated Medicaid benefits due to excessive income. The amount of income reported exceeds the limits set by policy for both SSI-R Medicaid and QMB Medicaid. However, to correctly take the negative actions, the Respondent must meet its adverse action notification requirements. These requirements are set by policy, not by the preferences of the Appellant or her representatives. The Board of Review lacks the authority to change policy or create new policy. The Respondent was required to notify the Appellant thirteen days prior to its negative action and did so (thirteen days from its September 12, 2024 notice is September 25, prior to the first day of the following month).

Based on the reliable evidence and testimony offered at hearing, the Respondent was clearly correct in its determination that the Appellant was over income for SSI-R Medicaid and QMB Medicaid. The Respondent properly notified the Appellant of this action at least thirteen days in advance, as required by policy. The Respondent's action to terminate the Appellant's Medicaid benefits due to excessive income is affirmed.

CONCLUSIONS OF LAW

- 1) Because the Appellant is over income for SSI-R Medicaid and QMB Medicaid, the Respondent must terminate the Appellant's Medicaid benefits in those categories.
- 2) Because the Respondent notified the Appellant of its proposed action thirteen days prior to its effective date, the Respondent correctly established the start date of its negative action to terminate the Appellant's Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to terminate the Appellant's Medicaid benefits due to excessive income.

ENTERED this _____ day of November 2024.

**Todd Thornton
State Hearing Officer**