



November 13, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS  
ACTION NO.: 24-BOR-3502

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,

Angela D. Signore  
State Hearing Officer  
Member, State Board of Review

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

Cc: Richard Griffey, WV DoHS  
Paul Patrick, WV DoHS

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-3502**

**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 November 6, 2024, on an appeal filed October 23, 2024.

The matter before the Hearing Officer arises from the October 8, 2024 determination by the Respondent to deny the Appellant's application for Adult Medicaid benefits.

At the hearing, the Respondent appeared by Richard Griffey, Department of Human Services (DoHS) Economic Service Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 WV DoHS Notice of Decision, dated October 08, 2024
- D-2 Hearing Summary, dated October 24, 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) On October 07, 2024, the Appellant applied for Modified Adjusted Gross Income (MAGI) Adult Medicaid benefits.
- 2) The Appellant's Needs Group (NG) consists of herself and her spouse. (Exhibit D-1)
- 3) Through a data exchange with the Social Security Administration (SSA), the Respondent verified that the Appellant's AG receives an unearned income in the amount of \$2,680.70 per month. (Exhibit D-1)
- 4) The maximum monthly gross income limit for Adult Medicaid program benefits for a two (2) person AG is \$2,266, or 133% of the Federal Poverty Level (FPL).
- 5) On October 08, 2024, the Respondent issued a notice of decision to the Appellant advising that her application for Adult Medicaid was denied due to the Appellant's household income (\$2,680.70) exceeding the eligibility income requirement. (Exhibit D-1)
- 6) The Appellant contested the Respondent's decision and requested a Fair Hearing on October 23, 2024.

## **APPLICABLE POLICY**

### **West Virginia Income Maintenance Manual (WVIMM) § 3.5 Medicaid – General Eligibility provides, in part:**

The Medicaid assistance group (AG) is composed of the individual(s) who meet(s) the eligibility requirements for coverage under a specific Medicaid coverage group. However, the income of the AG does not determine financial eligibility for all coverage groups. Some coverage groups require the determination of an income group (IG) to determine countable income and a needs group (NG) for comparison to the appropriate needs standard to determine financial eligibility. The case in which the AG member(s) receives coverage may be composed of eligible AG members of one or more coverage groups.

### **WVIMM § 3.7 The MAGI Household Needs Group (NG) provides, in part:**

The Patient Protection and Affordable Care Act, amended by the Health Care and Education Reconciliation Act of 2010, enacted March 30, 2010, are together referred to as the Affordable Care Act (ACA). The ACA established the categorically mandatory coverage group known as the Adult Group. Effective January 1, 2014, Medicaid coverage is provided to individuals age 19 or older and under age 65 who are not otherwise eligible for and enrolled in another categorically mandatory Medicaid coverage group, and are not entitled to or enrolled in Medicare Part A or B. Eligibility for this group is determined using Modified Adjusted Gross Income (MAGI) methodologies established in Section 4.7.

**WVIMM § 3.7.1.A Who Must Be Included? provides, in part:**

Adults age 19 or older and under age 65.

**WVIMM § 3.7.2 The MAGI Household Income Group provides, in part:**

Income of each member of the individual's MAGI household is counted. The income group is determined using the MAGI methodology established in Section 3.7.3.

**WVIMM § 3.73 The MAGI Household Needs Group (NG) provides, in part:**

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 the MAGI household size, the following step-by-step methodology is used for each applicant. For purposes of applying the MAGI methodology:

- Child means natural, adopted, or stepchild;
- Parent means natural, adopted, or stepparent;
- Sibling means natural, adopted, half, or stepsibling.

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.

**STEP 1: IS THE APPLICANT A TAX FILER (and will NOT be claimed as a tax dependent)?**

**IF NO:** Move to **STEP 2.**

**IF YES:** The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer. This is known as the tax filer rule.

**STEP 2: IS THE APPLICANT CLAIMED AS A TAX DEPENDENT ON SOMEONE ELSE'S TAXES?**

**IF NO:** Move to **STEP 3.**

**IF YES:** Test against the three exceptions below. If the answer to any of these exceptions is 'yes', then the applicant's MAGI household size must be calculated using **STEP 3.**

1. The applicant is claimed as a dependent by someone other than a spouse or parent.

2. The applicant is a child under 19 who lives with both parents, but both parents do not expect to file taxes jointly.
3. The applicant is a child under 19 who is claimed as a tax dependent to a non-custodial parent(s).

If none of these exceptions are true, then the applicant's Medicaid household consists of the applicant, the tax filer claiming him as a dependent, this could be two people filing jointly, any other dependents in the tax filer's household, and the applicant's spouse if they reside together. This is known as the tax dependent rule.

***STEP 3: IF THE APPLICANT IS NOT A TAX FILER, IS NOT CLAIMED AS A TAX DEPENDENT OR MEETS ONE OF THE EXCEPTIONS IN STEP 2:***

*The Medicaid household consists of the applicant and the following individuals as long as they reside with the applicant:*

- *The applicant's spouse;*
- *The applicant's child(ren) under age 19;*
- *For applicants under 19, their parents, and their siblings who are also under 19.*

*This is known as the non-filer rule. [Emphasis Added]*

**STEP 4: CASES WHERE APPLICANT CANNOT REASONABLY ESTABLISH TAX DEPENDENT STATUS**

If an applicant/tax filer cannot reasonably establish that reported household members will be tax dependents of the applicant for the tax year in which Medicaid is sought, the inclusion of such individual in the MAGI household of the tax filer is determined using rules in **STEP 3**.

**WVIMM § 4 Appendix A provides, in part:**

The income limit for a two (2) person MAGI Medicaid Assistance Group is \$2,266 or 133% of the Federal Poverty Level (FPL).

**WVIMM § 4.7 MAGI Methodology – Adult Group provides, in part:**

The Modified Adjusted Gross Income (MAGI) methodology is used to determine financial eligibility for the Adult Medicaid group.

**WVIMM § 4.7.1 Determining Income Counted for the MAGI household provides, in part:**

Income of each member of the individual's MAGI household is counted. The MAGI household is determined using the MAGI methodology established in Chapter 3.

#### **WVIMM § 4.7.2 Calculating MAGI provides, in part:**

MAGI-based income includes:

- Adjusted gross income (taxable income less deductions/adjustments), excluding:
  - Certain taxable American Indian/Alaska Native income
  - Taxable scholarships/awards used for educational purposes
- Non-taxable Social Security benefits
- Tax-exempt interest
- Foreign earned income

To calculate the MAGI, determine the adjusted gross income amount 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 § 4.7.4 Determining Eligibility provides, in part:**

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 results from Step 2 is equal or less than the appropriate income limit (133% FPL), no disregard is necessary, and no further steps are required.

The adjusted gross income is then compared to the 133% of the FPL for the appropriate AG size to determine eligibility for MAGI Medicaid.

#### **WVIMM § 23.10.4 Adult Group Income Guidelines provides, 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 financially eligible for Adult Medicaid, income must be below or equal to 133% of the Federal Poverty Level (FPL).

## DISCUSSION

Medicaid pays for medical care for individuals who meet federal guidelines relating to individual or family income, assets, and health care needs. The Affordable Care Act provides a new simplified method for calculating income eligibility for most Medicaid members. This new method calculates eligibility for most programs based on what is called Modified Adjusted Gross Income (MAGI). The use of MAGI standardizes income eligibility rules across all medical assistance and insurance affordability programs.

The Appellant applied for Adult Medicaid benefits on October 07, 2024. The Respondent testified that because the Appellant is aged sixty-three (63) and is not eligible for Medicare, potential eligibility for MAGI Medicaid for a two (2) person AG was considered. Through a data exchange with the Social Security Administration, the Respondent verified that the Appellant's AG receives an unearned income in the amount of \$2,680.70 per month. The Respondent testified that because the Appellant's household income exceeds the \$2,266 per month eligibility limits established by policy, a notice of denial was issued on October 08, 2024. To prove that the Respondent correctly denied the Appellant's Adult Medicaid benefit application, the Respondent had to demonstrate by a preponderance of the evidence that the Appellant was correctly assessed as a two (2) person household and that the \$2,680.70 per month income was correct and exceeded the Medicaid eligibility limit established by policy at the time of the Respondent's October 08, 2024 denial.

During the hearing the Appellant verified that the household income was correct. However, because her adult son and his thirteen (13) year old daughter also reside with the Appellant, she argued that a four (4) person AG should have been considered. The Appellant testified that because the only source of household income is Social Security benefits received by her husband, they are not required to file taxes. The Respondent argued that for the Appellant's household to be established as a four (4) person AG, the policy instructs that the tax filer status of an applicant must be verified by the Appellant claiming her adult son and his daughter as tax dependents. Because the Appellant and her spouse have not filed a Federal income tax return, the Appellant's application could only be evaluated as a two (2) person household - the Appellant and her spouse.

When reviewing the policy, WVIMM § 3.73: The MAGI Household Needs Group (NG) reads that: if the applicant is not a tax filer and/or is not claimed as a tax dependent, the Adult Medicaid household may only consist of the Appellant, the Appellant's spouse, and the Appellant's child(ren) that are under the age of nineteen (19). Because of this, the Respondent correctly evaluated the Appellant's application as two (2) person household. To be eligible for Adult Medicaid benefits for a two (2) person AG, the Appellant's monthly countable income of \$2,680.70 must be considered. This amount is then divided by 100% of the FPL. A 5% disregard may be applied if the deduction would bring the AG's income below the 133% FPL limit established by policy:  $\$2,680.70 \div \$1,704 = 1.57$ . The Appellant's FPL is then converted to a percentage:  $1.57 = 157\%$ . Because the application of the 5% disregard would not bring the Appellant's income below the 133% FPL policy requirement, the disregard cannot be applied. Because the Appellant's gross monthly income amount of \$2,680.70 exceeds the 133% FPL as established by policy, the Respondent correctly denied the Appellant's Adult Medicaid application.

**CONCLUSIONS OF LAW**

- 1) Pursuant to policy, if an applicant is not a tax filer and is not claimed as a tax dependent, the Adult (MAGI) Medicaid Needs Group (NG) may only consist of the Appellant, the Appellant's spouse, and the Appellant's child(ren) that are under the age of nineteen (19).
- 2) Because the Appellant is not claimed as a tax dependent, and because the Appellant and her spouse have no child(ren) that are under the age of nineteen (19), the Respondent correctly evaluated the Appellant's application = as a two (2) person household - the Appellant and her spouse.
- 3) To be eligible for Adult Medicaid benefits for a two (2) person Assistance Group (AG), the Appellant's monthly household income must be at or below 133% of the Federal Poverty Level (FPL).
- 4) For a two (2) person AG, the monthly household income limit is \$2,266.
- 5) The Appellant's income amount of \$2,680.70 exceeded the 133% FPL for a two (2) person Adult Medicaid AG.
- 6) The Respondent correctly denied the Appellant's Adult Medicaid benefit application due to the Appellant's income exceeding Medicaid eligibility guidelines.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's application for Adult Medicaid benefits.

**ENTERED this \_\_\_\_\_ day of November 2024.**

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**Angela D. Signore  
State Hearing Officer**