December 19, 2024

RE: v. WVDoHS
ACTION NO.: 24-BOR-3719

Dear :

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 people 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: Susan Snider, WVDoHS

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WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

Appellant,

v. **Action Number: 24-BOR-3719**

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 December 17, 2024.

The matter before the Hearing Officer arises from the October 11, 2024, decision by the Respondent to deny Long-Term Care Medicaid benefits.

At the hearing, the Respondent appeared by Susan Snider, Economic Service Worker, WVDoHS. The Appellant was represented by Business Office Manager, , and his wife, . All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Long-Term Care Medicaid application submitted to Respondent on August 27, 2024
D-2 Verification Checklist dated September 28, 2024
D-3 Bank statements for joint account of
D-4 Bank statements for joint account of
D-5 E-mail correspondence between Susan Snider and dated September 25, 2024, letter from received by Respondent on September 30, 2024, letter from dated October 24, 2024, and

or Other Death Benefits dated October 22, 2024, and scanned by Respondent on November 8, 2024

D-6 Notice of Decision dated October 11, 2024
D-7 West Virginia Income Maintenance Manual Chapter 7.2.3
D-8 E-mails correspondence between Susan Snider and dated September 18, 2024, through November 4, 2024
D-9 Correspondence between Susan Snider and dated October 22, 2024
D-10 Case Comments from Respondent's computer 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 admitted to nursing facility on July 11, 2024.

2) The Appellant applied for Long-Term Care Medicaid benefits on August 27, 2024 (Exhibit D-1).

3) The Respondent backdated the Appellant's application to July 2024.

4) The Respondent was required to complete an asset assessment in conjunction with the application since the Appellant has a spouse in the community.

5) The Respondent's application states that household members had life insurance and a burial fund at , but does not identify which household members owned the assets (Exhibit D-1).

6) The Respondent sent the Appellant a Verification Checklist on September 18, 2024, requesting information concerning the Appellant's nursing home admission date and assets, including verification of the burial contract and the cash surrender values of any life insurance policies owned by the Appellant and/or his wife with " " (Exhibit D-2).

7) The Verification Checklist indicates that the requested information must be provided to the Respondent by September 28, 2024, or the Appellant's application would be denied (Exhibit D-2).

8) On September 18, 2024, the Respondent's representative, Susan Snider, informed , Business Officer Manager at , that she was processing

the Appellant's application and had sent out a verification checklist to , the Appellant's wife, to provide additional information, including verification of burial accounts and life insurance policies (Exhibit D-8).

9) On September 20, 2024, sent e-mail correspondence to Ms. Snider, asking whether information submitted to (the Department worker who originally completed the Appellant's Long-Term Care Medicaid application) had been forwarded to Ms. Snider (Exhibit D-8).

10) On September 25, 2024, Ms. Snider received correspondence from indicating that the $10,000 Insurance policy was for funeral expenses at correspondence states that "Roy gave all of his papers to (Exhibit D-5).

11) On September 30, 2024, Ms. Snider received additional correspondence from , indicating that "information about the burial contracts is available at (Exhibit D-5).

12) On October 10, 2024. Ms. Snider informed that she had received the documentation provided to but it did not include information concerning whether the Appellant had a burial trust fund or verification of life insurance policies for the Appellant and his wife. Ms. Snider indicated that the application would be denied based on failure to provide verification (Exhibit D-10)

13) On October 11, 2024, the Respondent sent a Notice of Decision indicating that the Appellant's Long-Term Care Medicaid application was denied based on failure to provide verification (Exhibit D-6).

14) On October 18, 2024, Ms. Snider spoke to via telephone and informed her of the verification needed for the Appellant's application, advising that it was her responsibility to provide the documentation (Exhibit D-10).

15) On October 22, 2024, Respondent worker informed Ms. Snider that the Department received a telephone call from a representative of who indicated that the Appellant's insurance policy with had been cancelled in 1996 (Exhibit D-9).

16) On October 31, 2024, informed Ms. Snider via e-mail that had no life insurance since 1996 and that had life insurance through contended that the insurance information had been provided to (Exhibit D-9).

17) Ms. Snider informed on November 7, 2024, that the verifications had not been received by the Respondent and that the Appellant would need to reapply for Long-

Term Care Medicaid because the Appellant's initial application was over 60 days old (Exhibit D-9).

18) On or about November 8, 2024, the Respondent received a letter from [redacted] referring to a group term life insurance policy and listing "N/A" as the customer's name. The document contains no identifying information for the Appellant and states that "The life coverage and all certificates for the various companies were terminated on 1/1/1996. This means that the companies may have elected to have a different insurance company insure their employees." (Exhibits D-5 and D-10).

19) The Respondent scanned information on November 8, 2024, regarding a [redacted] [redacted] or Other Death Benefits for [redacted] The document states that [redacted] transferred her [redacted] policy to the funeral home, with proceeds of the policy not to exceed $6,239.45, the cost of the funeral goods and services. The document was signed by [redacted] on October 23, 2024 (Exhibit D-5).

20) On November 28, 2024, the Appellant submitted a new Long-Term Care Medicaid application to the Respondent.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 24.8.1 states that when an institutionalized person has a spouse in the community, the worker determines the value of the assets as governed by Chapter 5 and completes an Asset Assessment, described below. The purpose of the Asset Assessment is to allow the spouse of an institutionalized individual to retain a reasonable portion of the couple's assets and to prevent the impoverishment of the community spouse. This section is not applicable to clients eligible for or enrolled in MAGI eligibility groups or couples where both spouses are institutionalized.

West Virginia Income Maintenance Manual Chapter 24.8.1.A:

> When determining eligibility for nursing facility services for an individual who has a community spouse, the Worker must complete a one-time assessment of the couple's combined countable assets, called an Asset Assessment. A legally married individual and his spouse, although separated, are treated as a couple for the Asset Assessment, regardless of the length of the separation. An Asset Assessment is completed when an institutionalized individual transfers to a nursing facility in West Virginia, even if one was previously completed in the former state of residence. An asset assessment must be completed as of the first continuous period of institutionalization. The first continuous period of institutionalization is the date the client first enters the nursing facility and remains for at least 30 days or is reasonably expected to remain for 30 days at the time the individual enters the facility. The spousal limits in effect at the time the assessment is completed are used. If requested by the client or authorized representative, the assessment may be

completed prior to application as of the first continuous period of institutionalization. Nursing facilities are required to advise all new admissions and their families that an Asset Assessment is available upon request from the local office. The agency has developed a statement concerning the availability of Asset Assessments. Nursing facilities provide this "Patient's Bill of Rights" as part of their admission package. See Appendix B. When a Medicaid client in a MAGI coverage group applies for payment of nursing facility services, an Asset Assessment is not required. However, if a MAGI client is later determined eligible in a non-MAGI group, an Asset Assessment is completed with information using the date the client first entered the nursing facility. The assessment is completed on form IM-NL-AC-1 or in the eligibility system. When requested, the Worker must advise the individual(s) of the documentation required for the assessment. Verification of ownership and the fair market value (FMV) (see Section 24.8.2.A.1 for definition) must be provided. When it is not provided, the assessment is not completed. The Worker documents the total value of all countable assets.

The following forms are used as part of the asset assessment:

- Notice of Decision – Asset Assessment (ES-NL-D, also known as the DFA-NL-D) This form is used when the client requests an Asset Assessment but has not formally applied for Medicaid. The ES-NL-D is used to notify the client that the results of an asset assessment cannot be appealed unless an application for nursing facility care is made. See Section 24.8.1.C. Form IM-NL-AC-1 must be mailed with the ES-NL-D. When the Asset Assessment is completed in the eligibility system, alternate notification is sent.
- Assets Computation and Asset Assessment (IM-NL-AC-1) This form is used to complete an Asset Assessment. The Asset Assessment may be completed in the eligibility system.

West Virginia Income Maintenance Manual Chapter 7.2.3 states that the primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperate in obtaining necessary verification. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information. Failure of the client to provide necessary information or to sign authorizations for release of information results in denial or the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

West Virginia Income Maintenance Manual Chapter 1.2.4 states that it is the client's responsibility to provide complete and accurate information about his circumstances so that the worker can make a correct determination about his eligibility.

West Virginia Income Maintenance Manual Chapter 1.2.10.B states that if an applicant fails to provide verifications requested on the DFA-6 or verification checklist within the specified time limit and the application is denied, the Assistance Group must be given an opportunity to have its eligibility established for up to 60 days from the date of application without completion of a new form.

If the client brings in the verifications before the 60-day period has expired, the Worker determines the AG's eligibility based on the original application, noting in Case Comments any changes which have occurred since the form was completed. If the application is approved, WV WORKS benefits are not retroactive to the date of application because the approval delay was the fault of the client. Benefits are issued from the date the client provides the verification. The Worker provides benefits using information reported during the original application and any other pertinent information provided prior to approval when the following conditions are met:

- The reapplication occurs no later than the end of the second month following the month of the most recent AG closure;
- The AG was closed for reasons other than failure to complete a redetermination, and a redetermination was not due the effective month of closure;
- The AG, Needs Group, Income Group composition, income, and other eligibility factors have not changed significantly;
- The category of relatedness has not changed (not applicable for WV WORKS);
- The information provided by the client is not questionable; and,
- The latest application form contains the appropriate signatures.

West Virginia Income Maintenance Manual Chapter 5.4 states that the asset limit for SSI Medicaid Groups for a two-person Assistance Group is $3,000. In cases involving spouses who are living together, only one of whom is eligible for an SSI Medicaid Group, the asset limit for two persons is used for their combined non-excluded assets.

West Virginia Income Maintenance Manual Chapter 5.5.2.7 states that the cash surrender value of a life insurance policy is considered an asset for SSI Medicaid groups. If the face value of all life insurance policies for one individual totals $1,500 or less, the cash surrender values are not counted as an asset. If the face value of all life insurance policies for an individual is in excess of $1,500, the cash surrender values are counted as an asset. The life insurance policy must be owned by the client or by a person whose assets are deemed to him to be counted. If the consent of another individual is needed to surrender a policy for its full cash surrender value, and the consent cannot be obtained, the policy is not an asset. Assignment of a life insurance policy to another individual means consent of that individual is required before it can be cashed.

West Virginia Income Maintenance Manual Chapter 5.5.6.A states that money set aside to pay for funerals and related expenses may be counted as an asset. When set up as a trust, prepaid burials can be paid for by cash, insurance policies, or annuities. For treatment of burial funds by program, see Section 5.6.

West Virginia Income Maintenance Manual Chapter 5.6.1.G states that the value of one funeral agreement per Assistance Group member is excluded. In addition, any burial funds in an irrevocable trust are excluded.

DISCUSSION

Long-Term Care Medicaid policy states that when an institutionalized person has a spouse in the community, the worker determines the value of the assets and completes an asset assessment. The primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperate in obtaining necessary verification. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information. Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

Ms. Snider contended that the Respondent did not receive requested documentation concerning the existence of life insurance and/or burial funds for the Appellant and his community spouse by the verification due date; therefore, his Long-Term Care Medicaid application was denied. While the Respondent received information that [REDACTED] insurance policy was transferred to [REDACTED] in late October 2024, no verification was provided to document the cash surrender value of the policy as of July 2024 (the backdated application date). In addition, the information concerning the cancellation of [REDACTED] insurance policy did not contain identifying information for the Appellant.

[REDACTED] testified that she has learned the Appellant does not have a burial contract and contended that [REDACTED] had provided information about her [REDACTED] policy to [REDACTED] at the Department. Ms. Snider contended that [REDACTED] forwarded the verifications he received to her, but the [REDACTED] information was not included in the documentation. [REDACTED] stated that she has no date-stamped documentation to verify the date that the information was purportedly provided to [REDACTED].

Ms. Snider informed [REDACTED] that she had no verification concerning the burial fund and life insurance in her possession on October 10, 2024, and there is no indication that the Appellant's representatives attempted to resubmit the [REDACTED] policy information to Ms. Snider at that time. The [REDACTED] policy for [REDACTED] was not submitted as evidence during the hearing; therefore, there is no verification of the cash value of the insurance policy as of July 2024.

The Appellant's wife testified that she is disabled and it is difficult for her to go out and collect required documentation. Ms. Snider contended that she was unaware that [REDACTED] would experience difficulty obtaining verification at the time the application was processed. Evidence reveals that Ms. Snider corresponded with [REDACTED] on several occasions to address the needed documentation.

As the required asset verification was not submitted to the Respondent by the due date (or within 60 days of the application date), the Respondent correctly denied the Appellant's August 27, 2024, Long-Term Care Medicaid application.

CONCLUSIONS OF LAW

1) Policy states that when an institutionalized person has a spouse in the community, the worker must determine the value of the couple's assets for Long-Term Care Medicaid purposes.

2) The primary responsibility for providing verification rests with the client/client's representative.

3) Failure of the client to provide necessary information results in denial of the application.

4) As the Appellant's representatives failed to provide all asset verification requested by the Respondent, the Respondent acted correctly in denying the Appellant's August 27, 2024, Long-Term Care Medicaid application.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to deny the Appellant's August 27, 2024, Long-Term Care Medicaid application.

ENTERED this 19th day of December 2024

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Pamela L. Hinzman
State Hearing Officer