



December 17, 2024

[REDACTED]

RE: [REDACTED] v. DoHS/BFA
ACTION NO.: 24-BOR-3682

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Angela Mitchem, [REDACTED] DoHS

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

████████████████████

Appellant,

v.

Action Number: 24-BOR-3682

**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 December 12, 2024

The matter before the Hearing Officer arises from the November 8, 2024, decision by the Respondent to terminate the Appellant’s Adult Medicaid benefits.

At the hearing, the Respondent appeared by Angela Mitchem, ██████████ DoHS. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence.

Department’s Exhibits:

None

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 submitted a Medicaid review form to the Respondent on October 17, 2024.
- 3) The Respondent calculated the Appellant's gross monthly earned income as \$2,880.44 based upon paystubs provided by the Appellant.
- 4) The Appellant claims herself and her daughter as dependents on her federal income taxes.
- 5) The income limit for a two-person assistance group for Adult Medicaid benefits is \$2,266
- 6) The Respondent sent a notice of termination to the Appellant on November 8, 2024, advising that her Adult Medicaid benefits would close effective November 30, 2024, due to excessive income.

APPLICABLE POLICY

Code of Federal Regulations, 42 CFR §435.119 provides the following information concerning Adult Medicaid coverage:

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.

West Virginia Income Maintenance Manual Chapter 3 explains eligibility determination groups for MAGI Adult Medicaid:

3.7 Adult Medicaid Group

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.

3.7.2 MAGI Household Income Group (IG)

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.

EXCEPTION: Income of children, or other tax dependents, who are not expected to be required to file an income tax return is not counted, whether or not the individual actually files a tax return.

3.7.3 MAGI Household Needs Group (NG)

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. 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 MAGI household of the pregnant woman also includes her unborn child(ren).

This methodology must be applied to each applicant in the MAGI household separately:

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.

West Virginia Income Maintenance Manual Chapter 4 explains income eligibility:

4.2 Definitions

Earned income is the income of an individual which is derived, at least in part, from compensation for physical or mental activity as part of a trade or business. *Earnings include gross income from employment and gross profit from self-employment.*

4.7.1 Determining Income Counted for the MAGI Household

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.

4.7.4 Determining Eligibility

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 (133% FPL), no disregard is necessary, and no further steps are required.

Step 3: If the result from Step 2 is greater than the appropriate limit (133% FPL), 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.

4.6.1.D How to Use Past and Future Income

After the Worker determines all of the income sources that are to be considered for use, the Worker determines the amount of monthly income based on the frequency of receipt and whether the amount is stable or fluctuates. The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income. The client is not, then, required to report fluctuating income each pay period and the Worker is not required to change income monthly. Should the client report fluctuations in the amount of income, the Worker is only required to recalculate the countable income when, in his judgment, the fluctuation will affect eligibility. All changes reported by the client must be considered, but not necessarily used. Reported changes must be recorded and the Worker must record why the reported income was or was not used.

Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Biweekly amount (every two weeks) x 2.15
- Semimonthly (twice/month) x 2

Chapter 4 Appendix A: Income Limits

133% of the FPL for a two-person AG: \$2,266

100% of the FPL for a two-person AG: \$1,704

DISCUSSION

Pursuant to policy, the income limit for a two-person assistance group for MAGI Adult Medicaid benefits is \$2,266, or 133% of the federal poverty level. A 5% disregard is applied if the deduction would bring the assistance group's income below the 133% federal poverty level income limit.

The Respondent verified the Appellant's earned income by paystubs provided by the Appellant for the October 2024 Medicaid redetermination: September 20, 2024, \$1,391.58 and October 4, 2024, \$1,287.90. The Appellant's monthly earned income was determined to be \$2,880.44

following the steps found in policy ($\$1,391.58$ plus $\$1,287.90 = \$2,679.48$ divided by 2 equals $\$1,339.74$ multiplied by 2.15 equals $\$2,880.44$).

The Appellant testified that she has medical conditions that require treatment, and she cannot afford health insurance. The Appellant contested the Respondent's use of her gross income from employment instead of her net income, contending that she is income-eligible for Medicaid if the Respondent considered her net income.

Policy requires that Respondent must use gross income to determine eligibility for Medicaid benefits and allows a 5% income disregard if the deduction would bring the assistance group's income below the 133% FPL income limit. To determine if the Appellant is eligible for the 5% disregard, the gross monthly income is divided by 100% of the federal poverty level for the size of the assistance group: $\$2,880.44$ divided by $\$1,704 = 1.69$ which is then converted to a percentage, 169%. Since the application of the 5% disregard would not bring the Appellant's income that is 169% of the federal poverty level below the allowable income limit of 133% of the federal poverty level, the disregard is not applied. The Appellant's income is excessive to continue receiving MAGI Adult Medicaid benefits.

Whereas the Appellant's income is excessive to continue receiving MAGI Adult Medicaid benefits, and the Board of Review lacks the authority to grant policy exceptions, the Respondent's decision to terminate benefits is affirmed.

CONCLUSIONS OF LAW

- 1) The income limit for a two-person assistance group for MAGI Adult Medicaid benefits is $\$2,266$.
- 2) The Appellant's gross monthly earned income is $\$2,880.44$, 169% of the federal poverty level.
- 3) The application of the 5% disregard does not bring the Appellant's income at or below 133% of the federal poverty level.
- 4) The Appellant's income is excessive to continue receiving MAGI Adult Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Adult Medicaid benefits.

ENTERED this 17th day of December 2024

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Kristi Logan
Certified State Hearing Officer