January 8, 2025

[redacted]

RE: [redacted] v. WV DoHS/BFA
ACTION NO.: 24-BOR-3461

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,

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-3461**

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 originally convened on January 7, 2025.

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

At the hearing, the Respondent appeared by Ann Hubbard, Economic Service 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 Hearing Summary
- D-2 Closure Notice (CMC1), dated August 19, 2024
- D-3 Completed Medicaid Review Received August 25, 2024
- D-4 Verification Request (DFA-6), dated August 29, 2024
- D-5 Pay statements from [redacted], August 2, 16, and 30, 2024
- D-6 Worker desk copy of WV Income Maintenance Manual (WV IMM), Chapter 4, Appendix A (effective March 1, 2024)
- D-7 Denial Notice, dated September 18, 2024
- D-8 WV Income Maintenance Manual (IMM), Chapter 4, §4.7.1 and 4.7.4

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 was receiving Adult Medicaid in an Assistance Group (AG) of one.

2) The Appellant was required to complete a Medicaid review by August 1, 2024, which she submitted to the Respondent on August 25, 2024. (Exhibit D-3)

3) The Appellant did not report any income on her submitted Medicaid review form. (Exhibit D-3)

4) Because there was a discrepancy between the Appellant's report of zero income and the Federal Data HUB, verification of employment and income were requested. (Exhibits D-1 and D-4)

5) On August 29, 2024, a request for verification of income was sent to the Appellant requesting information regarding the Appellant's current employment and the hours and gross income she received from July 28, 2024 through August 26, 2024. (Exhibits D-4)

6) The Appellant returned pay statements showing gross income from [redacted]:
   - August 2, 2024 = $1,336.50
   - August 16, 2024 = $2,398.71
   - August 30, 2024 = $971.50

   (Exhibit D-5)

7) The Respondent used the two pays that were within the look-back period to calculate the Appellant's total monthly income of $4,015.35 ($1,336.50 + $2,398.71 ÷ 2 = $1,867.61 x 2.15). (Exhibits D-1)

8) The Appellant's gross income ($4,015.35) divided by 100% of the FPL ($1255) equals 319.95%.

9) The income limit for Adult Medicaid eligibility is 133% of the Federal Poverty Level (FPL), or $1,670 for an AG of 1. (Exhibit D-6)

10) On September 18, 2024, the Respondent issued a notice of denial of the Appellant's Adult Medicaid benefits due to excessive income. (Exhibit D-7)

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 FPL.**
>
> (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, states, 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 eligible for the Adult Group, income must be equal to or below 133% of the Federal Poverty Level (FPL).

WV IMM, Chapter 3, §3.7.3, states, in part: The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

WV IMM, Chapter 4, §4.7.2, explains that eligibility for the MAGI coverage group is determined by using the adjusted gross income (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, Chapter 4, §4.7.3, states that the only allowable income disregard is an amount equivalent to five percentage points of 100% of the Federal Poverty Level (FPL) for the applicable MAGI household size. The 5% FPL disregard is not applied to every MAGI eligibility determination and should not be used to determine the MAGI coverage group for which an individual may be eligible. The 5% FPL disregard will be applied to the highest MAGI income limit for which an individual may be determined eligible.

WV IMM, Chapter 4, §4.6.1.D, explains that conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Bi-weekly amount (every two weeks) x 2.15
- Semi-monthly (twice/month) x 2.

WV IMM, Chapter 4, §4.7.4, states that 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, no disregard is necessary, and no further steps are required.

Step 3: If the result from Step 2 is greater than the appropriate limit, 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.

WV IMM, Chapter 4, Appendix A, sets the income limit for a one-person Adult Medicaid Assistance Group as $1,670 (133% of the Federal Poverty Level)

DISCUSSION

According to policy, the income limit for a one-person assistance group for Adult Medicaid benefits is $1,670, or 133% of the Federal Poverty Level (FPL). Policy requires that the Respondent use gross income to determine eligibility for Medicaid benefits. Once the monthly gross income is determined, a 5% income disregard may be used as a deduction if it would bring the AG's income below the 133% FPL income limit.

Although the Appellant failed to meet her Medicaid eligibility review deadline, she returned her completed review on August 25, 2024. Because there was a discrepancy between the Appellant's reported zero income and the Federal Data Hub, verification of gross income was required. Accordingly, on August 29, 2024, the Respondent's worker sent a verification request for the Appellant's employment to include hours worked and gross income from July 28 to August 26, 2024.

The Appellant returned the requested verification on September 5, 2024, showing her gross income as follows: August 2, 2024 = $1,336.50; August 16, 2024 = $2,398.71; August 30, 2024 = $971.50. The Appellant's monthly gross income was determined to be $4,015.35 following the steps found in policy: $1,336.50 plus $2,398.71 (the two pay statements within the lookback period) divided by 2 which equals $1,867.61, then multiplied by 2.15. Because the Appellant's income was determined to be over the allowable limit, on September 18, 2024, the Respondent sent notification to the Appellant that she was ineligible for Adult Medicaid.

The Appellant testified that she normally works part-time and that her pay fluctuates. The Appellant averred that she usually "brings home" $800 per paycheck. The Appellant stated that in August her pays were more than usual because she was offered more shifts with monetary incentives included. There was no corroborating evidence offered by the Appellant of gross income, which policy requires to be used. Moreover, in reviewing the pay statements in evidence, the year-to-date gross income total from the Appellant's August 30, 2024 pay statement shows $20,695.50, which does not support her contention. The Respondent's representative, Ann Hubbard, also testified that she tried to use various methods to reduce the Appellant's calculated income, such as using the lower pay outside of the lookback period and excluding the overtime pay but was unsuccessful.

Whereas the Appellant is over the allowable income limit for Adult Medicaid eligibility, the Respondent's decision to deny the Appellant's Medicaid benefit is affirmed.

CONCLUSIONS OF LAW

1) The Appellant was a recipient of Adult Medicaid benefits in an AG of one.

2) Policy sets the income limit for Adult Medicaid eligibility for an AG of one as $1,670.

3) The Appellant's calculated monthly gross income is $4,015.35, which is over the allowable income limit for Adult Medicaid eligibility.

4) The Respondent must deny the Appellant's redetermination for Medicaid benefits.

DECISION

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

ENTERED this 8th day of January 2025.

_____

Lori Woodward**,** Certified State Hearing Officer